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INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

HEARINGS BEFORE THE TEMPORARY NATIONAL ECONOMIC COMMITTEE CONGRESS OF THE UNITED STATES SEVENTY-SIXTH CONGRESS

SECOND SESSION

PURSUANT TO

Public Resolution No. 113 **(Seventy-fifth Congress)**

AUTHORIZING AND DIRECTING A SELECT COMMITTEE TO
MAKE A FULL AND COMPLETE STUDY AND INVESTIGA-
TION WITH RESPECT TO THE CONCENTRATION OF
ECONOMIC POWER IN, AND FINANCIAL CONTROL
OVER, PRODUCTION AND DISTRIBUTION
OF GOODS AND SERVICES

PART 23

INVESTMENT BANKING

FINANCING OF AMERICAN TELEPHONE & TELEGRAPH CO.

FINANCING OF RAILROAD MATURITIES, 1935

J. P. MORGAN & CO.

MORGAN STANLEY & CO., INC.

DECEMBER 15, 18, 19, AND 20, 1939

Printed for the use of the Temporary National Economic Committee



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(Created pursuant to Public Res. 113, 75th Cong.)

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Representing the Department of Commerce

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1659-53. Letter, dated April 26, 1906, from Hon. W. M. Crane to F. P. Fish regarding possible talk relative to Vail matter and hope that latter will not be retired from the board of directors-----	11843	12174
1659-54. Letter, dated July 5, 1906, from Clarence H. Mackay, president, Mackay Companies, to F. P. Fish regarding date of T. N. Vail's election to board of directors-----	11843	12174
1659-55. Letter, dated October 10, 1906, from Wm. H. Baker, vice president, Mackay Companies, to the Finance Committee of the Mackay Companies, regarding his opinion as to the effect a combination of the Western Union Telegraph and the American Telephone & Telegraph Co. would have upon the telegraph business-----	11843	12174
1659-56. Enclosure to letter dated October 10, 1906 by Wm. H. Baker to the Finance Committee of the Mackay Companies regarding the combining of telephone and telegraph companies-----		
1659-57. Letter, dated December 24, 1906, from Clarence H. Mackay to F. P. Fish requesting list of American Telephone & Telegraph Co. stockholders with their addresses in order to send them a copy of the regular annual report of the Mackay Companies-----	11843	12176
1659-58. Letter, dated December 28, 1906, from F. P. Fish to Clarence H. Mackay regarding undesirability of advertising the fact that one large corporation is interested in the stock of another-----	11843	12177
1659-59. Letter, dated December 31, 1906, from Clarence H. Mackay to F. P. Fish regarding effect of annual report of Mackay Companies upon the public relative to telephone holdings-----	11843	12177
1659-60. Letter, dated February 1, 1907, from Clarence H. Mackay to F. P. Fish regarding representation of Mackay Companies on the board of directors of American Telephone & Telegraph Companies-----	11843	12177
1659-61. Letter, dated February 10, 1907, from T. Jefferson Coolidge, Jr., Old Colony Trust Company, to F. P. Fish regarding Mackay Companies interest being opposed to interest of other stockholders and representation, therefore, should not be given to them-----	11843	12178
1659-62. Letter, dated February 13, 1907, from F. P. Fish to Clarence H. Mackay relative to undesirability of Mackay Companies having its stock interest specifically represented on American Telephone & Telegraph Company board of directors in view of competitive situation of the two organizations-----	11843	12178

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Intro- duced at page	Appears on page
1659-63. Letter, dated February 19, 1907, from Clarence H. Mackay to F. P. Fish taking exception to views expressed by latter and pointing out desirability of board representation-----	11843	12179
1659-64. Letter, dated February 21, 1907, from John I. Waterbury, Manhattan Trust Company, to F. P. Fish stating that the matter of directors should be firmly dealt with in the interest of the telephone company-----	11843	12179
1659-65. Letter, dated February 21, 1907, from Hon. W. M. Crane to F. P. Fish suggesting that President Mackay be notified that the matter of directors for the telephone company will be referred to the board of directors-----	11843	12180
1659-66. Letter, dated February 25, 1907, from F. P. Fish to Clarence H. Mackay stating the matter of A. T. & T. directors has been submitted to members of the board of directors for consideration-----	11843	12180
1659-67. Letter, dated March 6, 1907, from F. P. Fish to John I. Waterbury, Manhattan Trust Company, stating that executive committee had determined to ask Messrs. Thayer, Fish, and Waterbury to consider the question of directors and expressing view as to type of persons to be considered-----	11843	12180
1659-68. Letter, dated March 9, 1907, from Hon. W. M. Crane to F. P. Fish regarding necessity of careful inquiry before extending invitation to new board members and a suggestion that Mr. Cutler be chosen as a member-----	11843	12181
1659-69. Letter, dated March 11, 1907, from F. P. Fish to Hon. W. M. Crane stating the desirability of offering to one of the men Mr. Mackay suggested a position on the board of directors and general discussion on type of men to fill vacancies-----	11843	12181
1659-70. Letter, dated March 22, 1907, from F. P. Fish to Clarence H. Mackay stating that the American Telephone & Telegraph Co. board of directors thought it unwise to elect too large a representation of another and to some extent competing corporation-----	11843	12182
1659-71. Letter, dated July 14, 1908, from T. N. Vail, president, American Telephone & Telegraph Company to John I. Waterbury, Manhattan Trust Company, suggesting that the telephone company acquire Western Union Telegraph Company and stating advantages to the telephone company if Postal Company could be acquired-----	11843	12182
1659-72. Letter, dated November 24, 1909, from T. N. Vail to Clarence H. Mackay, president, Mackay Companies, regarding preparation of agenda to be taken up at next meeting-----	11843	12184
1659-73. Letter, dated November 30, 1909, from T. N. Vail to Clarence H. Mackay regarding possible discussion before making final plans to dispose of telephone holdings-----	11843	12185
1659-74. Letter, dated December 22, 1909, from T. N. Vail to Clarence H. Mackay requesting conference-----	11843	12185
1659-75. Letter, dated December 23, 1909, from Clarence H. Mackay to T. N. Vail regarding purchase price of telephone stock offered American Telephone & Telegraph Company-----	11843	12185

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Introduced at page	Appears on page
1659-76. Letter, dated February 18, 1910, from Clarence H. Mackay to T. N. Vail concerning option for the purchase of \$2,906 shares of American Telephone & Telegraph Company's stock from the Mackay Companies and The Commercial Cable Company-----	11843	12185
1659-77. Letter, dated February 19, 1910, from Clarence H. Mackay to T. N. Vail regarding terms of payment in exercise of option to purchase telephone stock held by the Mackay Companies and the Commercial Cable Company-----	11843	12186
1659-78. Letter, dated April 27, 1909, from W. A. Gaston, the National Shawmut Bank, to T. N. Vail regarding transfer of funds to Kidder, Peabody & Co. and charged against American Telephone & Telegraph Co. Letter, dated June 24, 1909, from T. N. Vail to T. L. Chadbowine, Jr. regarding agreement to purchase Western Union Telegraph Company capital stock up to and not exceeding 100,000 shares. Letter, dated June 24, 1909, unsigned (from T. L. Chadbourne, Jr.) to Robert Winsor, Kidder, Peabody & Co., accepting proposition respecting purchase of Western Union Telegraph Company capital stock. Letter, dated March 30, 1937, from N. R. Danielian, Federal Communications Commission, to W. Shelmerdine, American Telephone & Telegraph Company, requesting information as to number of shares of Western Union Telegraph Company stock the telephone company received in respect to the \$22,000,000 advanced to Kidder, Peabody & Co. Letter, dated April 14, 1937, from W. Shelmerdine to N. R. Danielian supplying information requested regarding acquisition of Western Union Telegraph Company stock by American Telephone & Telegraph Co. Memorandum covering data from various records regarding acquisition of Western Union stock by American Telephone & Telegraph Co. covering a period from April 28, 1909, to November 16, 1909.-----	11843	12186
1659-79. Letter, dated September 29, 1915, from T. N. Vail, president, American Telephone & Telegraph Company, to N. T. Guernsey, general counsel, American Telephone & Telegraph Company, regarding possible participation in proposed loan to Great Britain and France. Letter, from N. T. Guernsey to T. N. Vail regarding legality of Telephone Company participation in proposed loan to Great Britain and France. Letter, dated October 1, 1915, from T. N. Vail to Henry S. Howe regarding the question of participating in the loan to England and France to be taken up at the next meeting of the American Telephone & Telegraph Co. executive committee. Letter, dated August 21, 1916, from H. P. Davison, J. P. Morgan & Co., to T. N. Vail regarding possible purchase of \$5,000,000 of the new British 2-year loan. Memorandum, dated August 22, 1916, on American Telephone & Telegraph Company letterhead paper by A. C. DuBois to Mr. Milne regarding necessary refinancing to participate in British 2-year loan. Letter, dated August 23, 1916, from T. N. Vail to H. P. Davison, J. P. Morgan & Co., enclosing memorandum by		

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Intro- duced at page	Appears on page
<p>Mr. DuBois. Letter, dated November 2, 1926, from T. W. Lamont, J. P. Morgan & Co., to T. N. Vail regarding the holding of \$5,000,000 of British Government 3- and 5-year 5½ percent notes until the telephone company's next meeting. Letter, dated November 4, 1916, from T. N. Vail to T. W. Lamont stating participation in the British Government 2-year loan by the telephone company impossible. Letter, dated November 23, 1916, from T. N. Vail to J. P. Morgan & Co., requesting an offer for \$80,000,000 30-year collateral trust 5 percent bonds. Memorandum in response to request of N. R. Danielian, Federal Communications Commission, as to date which American Telephone & Telegraph Co. received proceeds from sale of 30-year 5 percent collateral trust bonds and other data pertaining thereto. Voucher, dated December 14, 1916, on American Telephone & Telegraph Company paper to J. P. Morgan & Co. relative to participation of the telephone company in special 6 percent demand loan to the British Government. Letter, dated December 14, 1916, from G. D. Milne to J. P. Morgan & Co. enclosing check amounting to \$20,000,000 for participation in 6 percent demand loan to British Government. Copy of resolution adopted by the executive committee of the American Telephone & Telegraph Company held December 20, 1916, regarding a participation of \$20,000,000 in special 6 percent demand loan to the British Government signed by A. A. Marsters, secretary. Letter, dated December 30, 1916, from J. P. Morgan & Co., to American Telephone & Telegraph Company enclosing check for \$60,000 covering interest on Telephone participation of \$20,000,000 in a special demand loan to the British Government. Copy of letter, dated January 2, 1917, from G. D. Milne, American Telephone & Telegraph Company, to J. P. Morgan & Co. in receipt of check for \$60,000 covering interest at rate of 6 percent on \$20,000,000 British Government demand loan. Copy of letter, dated January 24, 1917, from C. G. DuBois, comptroller, American Telephone & Telegraph Company, to U. N. Bethell, senior vice president, American Telephone & Telegraph Company, regarding notification by J. P. Morgan & Co. that the rate of interest in the British Government demand loan had been reduced from 6 percent to 5 percent. Letter, dated February 5, 1917, from J. P. Morgan & Co. to American Telephone & Telegraph Company crediting the telephone company with \$20,101,666.67, being repayment of participation of \$20,000,000 in special demand loan to the British Government.-----</p>	11843	12190
<p>1659-80. Letter, dated October 21, 1918, from T. N. Vail, president, American Telephone & Telegraph Company, to Hon. Newton D. Baker, Secretary of War, requesting that W. S. Gifford be released as director of the Council of National Defense so that he may be returned to his duties with the telephone company.-----</p>	11843	12196

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Intro- duced at page	Appears on page
1659-81. Resolution, dated June 19, 1919, giving U. N. Bethell leave of absence for one year as vice president of American Telephone & Telegraph Company. Agreement between U. N. Bethell and American Telephone & Telegraph Company covering transfer of certain securities to American Telephone & Telegraph and services to be rendered to the telephone company along with payment of salaries. Resolution, dated July 2, 1919, authorizing the purchase of certain shares of capital stock held by American Telephone & Telegraph Company. Resolution, dated July 2, 1919, by American Telephone & Telegraph Company agreeing to defend any actions brought against U. N. Bethell growing out of or based upon any action by him as director or officer of the telephone company. Resolution, dated July 2, 1919, by the executive committee of American Telephone & Telegraph Company that the full pay granted to U. N. Bethell as vice president by resolution shall be construed to include in addition the salaries paid him by associated subsidiary companies. American Telephone & Telegraph Company voucher made out to U. N. Bethell for purchase of certain shares of capital stock-----	11843	12196
1659-82. Copy of letter, dated December 19, 1924, unsigned (from H. B. Thayer, president, American Telephone & Telegraph Company) to Henry S. Howe, member of executive committee, American Telephone & Telegraph Company, regarding appointment of a committee for the purpose of filling the post of president in case of emergency. Letter, dated December 29, 1924, unsigned (from H. B. Thayer), to Henry S. Howe arranging for discussion relative to presidency of American Telephone & Telegraph Company. Letter, dated June 11, 1923, from H. B. Thayer, president, American Telephone & Telegraph Company, to George F. Baker, First National Bank, enclosing a suggestion for a letter to D. F. Houston. Letter, to D. F. Houston, president, Bell Telephone Securities Co., from George F. Baker, First National Bank, introducing Mr. Houston to bankers abroad-----	11843	12198
1659-83. Letter dated December 12, 1939, from W. Shelmerdine, American Telephone & Telegraph Company, to Lloyd C. Mathers, Securities & Exchange Commission, enclosing photostat copies of certain letters along with copy of stockholders resolution approved by stockholders December 21, 1905, authorizing the issue of \$150,000,000 convertible bonds-----	11843	12200
1660. Letter, dated December 1, 1939, from Leon Henderson to J. Lawrence Fly, Federal Communications Commission requesting use of exhibits relative to American Telephone & Telegraph Co. investigation-----	11845	12201
1661-1. Memorandum, dated November 15, 1939, for Henry C. Alexander regarding American Telephone & Telegraph Co. financing-----	11847	12201
1661-2. Table: Participations in underwriting by J. P. Morgan prior to 1920 in Telephone financing-----	11847	12202
1662. Copy of telegram, dated February 8, 1906, from Jacob Schiff, Kuhn, Loeb & Co., to Mr. Winsor, Kidder, Peabody & Co. regarding necessary changes in agreement for financing-----	11850	12206

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Introduced at page	Appears on page
1663. Letter, dated January 8, 1913, from J. P. Morgan & Co. to First National Bank regarding a 10-percent interest in American Telephone & Telegraph Company financing-----	11852	12207
1664. Letter, dated January 6, 1916, from J. P. Morgan & Co. to Kuhn, Loeb & Co. regarding a 15-percent interest in American Telephone & Telegraph Company financing-----	11856	12207
1665. Letter, dated November 27, 1916, from J. P. Morgan & Co. to Kidder, Peabody & Co. regarding a 31½-percent interest in American Telephone & Telegraph Company \$80,000,000 financing-----	11857	12208
1666. Table: Participations on "original terms" in Telephone financing headed by J. P. Morgan & Co., 1906-19-----	11861	12208
1667. Summary statement of participations by J. P. Morgan & Co. in issues of "associated" companies headed by others 1906-19-----	11861	12209
1668. Appears in Hearings, Part 22, appendix, p. 11827-----	11862	-----
1669. Telegram dated December 15, 1939 from R. S. Peterson, Halsey, Stuart & Co., Inc., to H. L. Stuart, Halsey, Stuart & Co., Inc., giving explanation of penciled notation on "Exhibit No. 1637"-----	11862	12210
1670. Appears in Hearings, Part 22, appendix, p. 11795-----	11862	-----
1671. Table: American Telephone proprietary interest, 1906-20-----	11866	12210
1672. Table: American Telephone & Telegraph Company proprietary interest, September 19, 1918-----	11867	12211
1673. Table: "original terms" group on future purchases of A. T. & T. securities as agreed to at "the Library," and dated May 5, 1920-----	11867	12211
1674. Memorandum, dated September 30, 1920, relative to New England proprietary interest and interest in Pennsylvania Bell selling syndicate-----	11868	12212
1675. Letter, dated August 17, 1920, from Dwight W. Morrow, J. P. Morgan & Co., to Robert Winsor, Kidder, Peabody & Co., regarding difficulty in allotting extra ¾ of 1 percent to Kuhn, Loeb & Co.-----	11868	12213
1676. Letter, from Robert Winsor to Dwight W. Morrow, regarding adjustment in allotting extra ¾ of 1 percent to Kuhn, Loeb & Co.-----	11868	12213
1677. Letter, dated September 28, 1920, from Dwight W. Morrow to Robert Winsor confirming oral agreement relative to ¾ of 1 percent extra allotment for Kuhn, Loeb & Co.-----	11869	11903
1678. Letter, dated October 1, 1920, from Robert Winsor to Dwight W. Morrow confirming the arrangement as to division of Telephone allotment to be given Kuhn, Loeb & Co.-----	11869	12212
1679. Table: American Telephone & Telegraph Company underwriting group showing division suggested and that finally agreed upon, dated May 6, 1920-----	11869	12214
1680-1. Memorandum, dated January 31, 1924, from Clifford M. Brewer relative to division of American Telephone & Telegraph underwriting between Kuhn, Loeb & Co. and J. P. Morgan & Co.-----	11870	12214
1680-2. Memorandum, dated January 25, 1924, regarding different basis for distributing proprietary profit and including a list of New England proprietary interest-----	11870	12215

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Intro- duced at page	Appears on page
1681-1. Letter, dated December 5, 1939, from Henry C. Alexander, J. P. Morgan & Co., to Peter R. Nehemkis, Jr. enclosing schedule regarding financing of American Telephone & Telegraph Co. and associated companies from January 1, 1920, to June 16, 1934.-----	11874	12215
1618-2. Table: Financing of American Telephone & Telegraph Co. and associated companies from January 1, 1920, to June 16, 1934.-----	11874	12216
1681-3. Table: Financing of American Telephone & Telegraph Co. and associated companies, January 1, 1920, to June 16, 1934. (Corrected version of "Exhibit No. 1681-2")-----	11874	12217
1682. Table: Bankers' gross commissions on issues of American Telephone & Telegraph Co. and associated companies managed by J. P. Morgan & Co. or Morgan Stanley & Co., Incorporated, 1906-39.-----	11875	12218
1683. Appears in Hearings, Part 21, appendix, p. 11380.-----	11892	-----
1684. Memorandum regarding \$25,000,000 Bell Telephone Company of Pennsylvania twenty-five-year first and refunding mortgage 7 percent sinking fund gold bonds series "A" syndicate.-----	11894	12219
1685-1. Letter, dated September 29, 1920, from J. P. Morgan & Co. to Kuhn, Loeb & Co. regarding the purchase of \$25,000,000 Bell Telephone Company of Pennsylvania issue.-----	11910	12219
1685-2. Letter, dated September 30, 1920, unsigned (from Kuhn, Loeb & Co.) to J. P. Morgan & Co. acknowledging letter dated September 30, 1920, confirming interest of \$2,687,500 in \$25,000,000 Bell Telephone Company of Pennsylvania issue.-----	11910	12220
1686-1. Letter, dated October 30, 1939, from J. P. Morgan & Co. to the Securities and Exchange Commission giving summaries of various Telephone issues.-----	11911	12220
1686-2. Memorandum, giving summaries of 14 issues in which J. P. Morgan & Co. participated in Telephone financing.-----	11911	12221
1687. Table: Percentage participations in issues of American Telephone & Telegraph Co. and associated companies headed by J. P. Morgan & Co., September 1920-January 1930.-----	11912	12234
1688. Table: Issues of American Telephone & Telegraph Co. and associated companies headed by J. P. Morgan & Co. 1920-30 showing length of time syndicate banks were open and relation of subscriptions to offerings.-----	11916	12235
1689-1. Memorandum regarding \$2,155,000 United States Telephone Company first mortgage 7 percent gold bonds extending to July 1, 1941.-----	11923	12236
1689-2. Memorandum regarding \$2,676,000 Cuyahoga Telephone Company first mortgage 7 percent gold bonds extended to July 1, 1941.-----	11923	12236
1690. Letter, dated March 2, 1935, from Albert H. Gordon, Kidder, Peabody & Co., to John Wilkie, Central Hudson Gas & Electric Corp., regarding belief of increased utility refunding and Telephone refunding.-----	11929	12237
1691. Stipulation by C. E. Mitchell regarding communications from the files of Blyth & Co., Inc.-----	11930	12238

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Introduced at page	Appears on page
1692. Memorandum, dated June 27, 1935, by C. E. Mitchell, Blyth & Co., Inc., to George Leib and others regarding discussion with George Whitney, J. P. Morgan & Co., with reference to Telephone financing and stating it would be a waste of time to see Walter Gifford, president of American Telephone & Telegraph Co.	11930	11930
1693. Letter, dated June 27, 1935, from C. E. Mitchell, Blyth & Co., Inc., to Walter S. Gifford, president, American Telephone & Telegraph Co., relative to future financing of American Telephone & Telegraph Co.	11931	12238
1694. Letter, dated December 11, 1939, from Charles A. Capek, Lee Higginson Corporation, to Peter R. Nehmkis, Jr., transmitting a letter dated April 4, 1935, by Mr. Hallowell, Lee Higginson Corporation to Charles H. Schweppe, Lee Higginson Corporation	11932	12239
1695. Letter, dated April 4, 1935, from N. P. Hallowell, Lee Higginson Corporation, to Charles Schweppe, Lee Higginson Corporation, regarding talk with Mr. Walter Gifford, president, American Telephone & Telegraph Company, relative to \$50,000,000 Southwest Bell Telephone Company issue	11932	12239
1696. Appears in Hearings, Part 22, appendix, p. 11826	11958	-----
1697. Memorandum, dated September 27, 1935, from E. N. Jesup, Lee Higginson Corporation, to N. P. Hallowell, Lee Higginson Corporation, covering talk with Harold Stanley relative to \$45,000,000 Illinois Bell Telephone issue	11966	12240
1698. Memorandum, dated September 30, 1935, by H. M. Addinsell, the First Boston Corporation, relative to conversation between Harold Stanley, Morgan Stanley & Co. Inc., and Mr. Addinsell regarding Illinois Bell Telephone Co. \$45,000,000, 35-year, 3½-percent first and refunding mortgage bonds	11967	12240
1699. Memorandum, dated November 20, 1935, by H. M. Addinsell regarding registration of Southwestern Bell Telephone Company \$45,000,000, 3½-percent bond offering	11972	12241
1700. Table: Public offerings of securities under Securities Act of 1933 by the American Telephone & Telegraph Company and subsidiary companies	11972	12242
1701. Memorandum, dated April 14, 1937, by H. M. Addinsell, the First Boston Corporation, regarding Southern Bell Telephone Company \$45,000,000, 3½-percent, 25-year debentures	11972	12243
1702. Memorandum, dated June 26, 1939, by H. M. Addinsell regarding Southern Bell Telephone Company \$22,250,000, 40-year, 3½ percent debentures	11972	12243
1703. Table: Relative participations in security issues of American Telephone & Telegraph and associated companies, 1935-39. Participations of the principal underwriters in relation to the participations of Morgan Stanley & Co., Incorporated	11973	12244
1704. Table: Financing of American Telephone & Telegraph Company and associated companies by Morgan Stanley & Co., Incorporated, from September 16, 1935, to June 30, 1939	11973	12245

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Introduced at page	Appears on page
1705. Memorandum, dated September 23, 1936, by George Leib, Blyth & Co., Inc., to C. R. Blyth, E. M. Stevens and others, Blyth & Co., Inc., relative to conversation with Mr. Stanley regarding \$175,000,-000 American Telephone & Telegraph Company 25-year 3½s.-----	11980	12250
1706. Letter, dated March 4, 1936, from Charles E. Mitchell, Blyth & Co., Inc., to Charles R. Blyth, Blyth & Co., & Co., Inc., relative to talks with Mr. Stanley relative to Blyth & Co., Inc., position in Pacific Telephone financing.-----	11984	12250
1707. Financing of American Telephone & Telegraph Company and Associated Companies headed by Morgan Stanley & Co. Incorporated, from October 16, 1935, to July 20, 1939.-----	11989	12251
1708. Letter, dated February 15, 1905, from Francis Higginson, Lee Higginson & Co., to F. P. Fish, president, American Telephone & Telegraph Company, protesting against American Telephone & Telegraph Company allowing a single firm to dominate its financing plans.-----	11993	12252
1709-1. Letter, from H. S. Sturgis, the First National Bank, to Peter R. Nehemkis, Jr. enclosing requested table showing the First National Bank's participation in American Telephone & Telegraph Co. financing.-----	11993	12253
1709-2. Letter, from H. S. Sturgis to Peter R. Nehemkis, Jr., adding Western Electric Company debentures of \$35,000,000 to table offered as "Exhibit 1709-3"-----	11993	12254
1709-3. Table: Participations by issues on original terms of the First National Bank or the First Security Company in American Telephone & Telegraph Company or Associated Companies financing from 1906 to date.-----	11993	12254
1710-1. Letter, dated December 6, 1939, from Kuhn, Loeb & Co. to Peter R. Nehemkis, Jr., transmitting a schedule of the percentage participation in American Telephone & Telegraph Company financing.-----	11993	12255
1710-2. Table: Participations by issues on original terms of Kuhn, Loeb & Co. in American Telephone & Telegraph Company or Associated Companies financing from 1906 to date.-----	11993	12256
1711. Letter, dated June 6, 1934, from William C. Potter, Guaranty Trust Company of New York to the stockholders regarding effect of Banking Act of 1933 on the Guaranty Trust Company.-----	12002	12259
1712. Table: Maturities of certain railroad bonds giving name of Company and description of bonds.-----	12004	12260
1713. Diary entries by John W. Cutler, H. D. Moore, and Karl Weisheit of Smith, Barney & Co. relative to New York Central R. R. Co. financing.-----	12008	12260
1714-1. Letter, dated June 18, 1935, from John W. Young, J. P. Morgan & Co., to Willard Place, New York Central Railroad Company accompanied by table showing original group and secondary group with amounts of participations in Toledo & Ohio Central financing.-----	12010	12261
1714-2. Handwritten note referring to table.-----	12012	12262
1715. Letter, dated June 3, 1935, from Willard Place, New York Central Railroad Co., to Max O. Whiting, Whiting, Weeks & Knowles, as to whether the bonds should carry a 3½ percent or 4 percent coupon.-----	12013	12013

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Intro- duced at page	Appears on page
1716. Letter, dated June 13, 1935, from E. Stuart Peck, Adams & Peck, to Willard Place, New York Central Railroad Co. regarding talk with Harry Morgan, J. P. Morgan & Co., relative to Toledo & Ohio Central bond issue-----	12014	12014
1717. Memorandum, dated June 17, 1935, by H. M. Addin- sell, the First Boston Corporation, regarding the Toledo & Ohio Central \$12,000,000 refunding and improvement mortgage 3¾ percent bonds-----	12016	12262
1718. Telegram, dated June 21, 1935, from Max O. Whiting, Whiting, Weeks & Knowles, to J. R. Macomber, the First Boston Corporation, protesting for place in Toledo & Ohio Central business-----	12019	12263
1719. Telegram, dated June 21, 1935, from Max O. Whiting to J. R. Macomber regarding the First Boston Cor- poration's lack of control over allocating Toledo & Ohio Central business-----	12020	12263
1720. Letter, dated June 28, 1935, from J. R. Macomber to George Whitney, J. P. Morgan & Co., in apprecia- tion for part in Toledo & Ohio Central financing---	12020	12020
1721. Table: Final selling list and the respective amounts of the various houses on Toledo & Ohio Central \$12,500,000, 3¾ percent bonds, series "A"-----	12021	12263
1722. Diary entries of John W. Cutler and Karl Weisheit, Smith, Barney & Co., relative to New York, Penn- sylvania & Ohio Railroad financing-----	12023	12264
1723. Memorandum, dated December 28, 1934, containing an extract from the minutes of the meeting of the board of directors of the Erie Railroad Company---	12025	12264
1724. Memorandum, dated December 11, 1934, by Horace D. Moore, Smith, Barney & Co., to J. W. Cutler regarding major financing of Erie Railroad Com- pany from June 28, 1924, to July 1, 1930-----	12027	12266
1725. Memorandum, dated December 17, 1934, by J. P. Ripley, National City Company, to H. C. Sylvester and P. V. Davis, National City Company, relative to heading New York, Pennsylvania, & Ohio ex- tension bonds-----	12031	12267
1726. Memorandum, dated February 13, 1935, by J. W. Cutler, Smith, Barney & Co., regarding extension of the \$8,000,000 New York, Pennsylvania & Ohio Railroad Company prior lien mortgage 4½ percent bonds-----	12031	12268
1727. Diary entries by John Cutler relative to Atlantic Coast Line R. R. Co. financing covering a period from September 20, 1934, to January 11, 1935-----	12035	12268
1728-1. Letter, dated May 21, 1935, from H. L. Borden, vice president, Atlantic Coast Line R. R. Co., to W. D. McCaig, comptroller, Atlantic Coast Line R. R. Co., relative to Atlantic Coast Line R. R. Co. \$12,000,000 collateral trust 5 percent notes-----	12039	12269
1728-2. Letter, dated May 22, 1935, from L. Delano, Atlantic Coast Line R. R. Co., to Roland L. Redmond, Carter, Ledyard & Milburn, relative to close of \$12,000,000 collateral trust notes transaction-----	12039	12272
1729. Memorandum by Burnett Walker, Edward B. Smith & Co., regarding Brown Harriman & Co., Incorporated, and Edward B. Smith & Co. being invited by J. P. Morgan & Co. to consider purchase of Chicago and Western Indiana Railroad Co. first and refunding mortgage 5½-percent, series "Q" bonds---	12041	12272

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Number and summary of exhibits	Intro- duced at page	Appears on page
1730. Memorandum, dated July 2, 1934, by H. D. Moore, E. B. Smith & Co., to Burnett Walker, E. B. Smith & Co., relative to Brown Harriman & Co., Incorporated having the strongest claim in leadership of Chicago and Western Indiana Railroad Co. financing-----	12042	12273
1731. Memorandum, dated February 21, 1935, by J. P. Ripley, Brown Harriman & Co., Incorporated, to H. C. Sylvester, Jr., P. V. Davis and W. Harmon Brown, Jr., Brown Harriman & Co., Incorporated, relative to having Kidder, Peabody & Co. in group with Atlantic Coast Line R. R. Co. financing-----	12042	12273
1732. Copy of letter dated April 30, 1934, from Arthur M. Anderson, J. P. Morgan & Co., to Ralph Budd, president, Chicago, Burlington & Quincy Railroad Co., regarding possible sale of Chicago & Western Indiana 5½-percent bonds-----	12042	12273
1733. Memorandum, dated May 17, 1934, by William Ewing, J. P. Morgan & Co. regarding conversation with Mr. A. N. Williams, president, Chicago & Western Indiana Railroad Co., about 6 percent collateral note for \$6,000,000 maturing October 7, 1935-----	12042	12274
1734. Telegram, dated June 28, 1934, from H. D. Moore, E. B. Smith & Co., to Burnett Walker and Karl Weisheit, E. B. Smith & Co., regarding statement by W. R. Coe, Brown Harriman & Co. that J. P. Morgan & Co. had asked Brown Harriman & Co. to form Chicago & Western Indiana group-----	12042	12275
1735. Diary entries by John W. Cutler and Karl Weisheit, E. B. Smith & Co., regarding Chicago & Western Indiana Railroad Co. from August 22, 1938, to February 15, 1935-----	12042	12275
1736. Memorandum, dated November 9, 1934, by William Ewing to A. M. Anderson, J. P. Morgan & Co., regarding sale of Chicago & Western Indiana bonds-----	12042	12275
1737. Letter, dated May 2, 1934, from Ralph Budd, president, Chicago, Burlington & Quincy Railroad Co., to A. M. Anderson stating that Mr. Sturgis, Chicago, Burlington & Quincy Railroad Co. is to handle Chicago & Western Indiana Railroad financing-----	12043	12276
1738. Memorandum, dated June 13, 1934, by C. I. Sturgis, Chicago, Burlington & Quincy Railroad Co. regarding talk with Mr. Anderson, J. P. Morgan & Co. relative to selling Chicago & Western Indiana Railroad bonds-----	12043	12276
1739. Memorandum, dated July 26, 1934, by A. N. Williams, president, Chicago & Western Indiana Railroad Co., regarding conversation with A. M. Anderson covering financial setup of Chicago & Western Indiana Railroad Co-----	12043	12277
1740. Telegram, dated November 13, 1934, from W. R. Coe, Brown Harriman & Co., Inc., to A. N. Williams regarding 24-hour delay in making Chicago & Western Indiana issue-----	12043	12277
1741. Telegram, dated November 9, 1934, from W. Ewing, J. P. Morgan & Co., to A. N. Williams requesting Mr. Ewing to talk with Mr. Davis of Brown Harriman & Co-----	12043	12278
1742. Telegram, dated November 9, 1934, from William Ewing to A. N. Williams stating possible close of Chicago & Western Indiana deal-----	12043	12278

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Intro- duced at page	Appears on page
1743. Telegram, dated November 13, 1934, from P. V. Davis, Brown Harriman & Co., to A. N. Williams regarding notification of group as to signing of contract for Chicago & Western Indiana financing-----	12043	12278
1744. Telegram, dated November 14, 1934, from A. N. Williams to A. M. Anderson, J. P. Morgan & Co., requesting that he discuss bond matter with Mr. Kurrie, vice president of Chicago & Western Indiana Railroad Co.-----	10243	12278
1745. Telegram, dated November 14, 1934, from A. M. Anderson to A. N. Williams stating willingness to see Mr. Kurrie regarding Chicago & Western Indiana Railroad Co.-----	12043	12278
1746. Telegram, dated November 19, 1934, from A. N. Williams to W. Ewing regarding situation so report may be given at directors' meeting-----	12043	12279
1747. Copy of letter dated December 14, 1934, unsigned, to W. Ewing regarding success of bond sale of Chicago & Western Indiana Railroad bonds-----	12043	12279
1748. Memorandum, dated June 17, 1936, by C. E. Mitchell, Blyth & Co., Inc., to C. R. Blyth and others, Blyth & Co. Inc., regarding \$26,000,000 Louisville & Nashville Railroad Company first and refunding 3½ percent bonds due 2003-----	12044	12279
1749. Memorandum, dated November 8, 1939, by Peter R. Nehemkis, Jr., to H. C. Alexander, J. P. Morgan & Co., requesting certain information from J. P. Morgan & Co.-----	12044	12280
1750. Letter, dated November 1, 1939, from H. C. Alexander to Peter R. Nehemkis sending copies of opinions requested dated May 29, 1934, July 22, 1935, August 21, 1935, and December 14, 1935-----	12044	12282
1751. Letter, dated May 29, 1936, from Davis Polk Wardwell Gardiner & Reed, to J. P. Morgan & Co. giving opinion under section 21a of Banking Act of 1933-----	12044	12282
1752. Letter, dated July 22, 1935, from Davis Polk Wardwell Gardiner & Reed, to J. P. Morgan & Co. rendering opinion regarding extension of the New York, Pennsylvania and Ohio Railroad Company prior lien mortgage bonds-----	12044	12283
1753. Letter, dated August 21, 1935, from Davis Polk Wardwell Gardiner & Reed, to John P. Meyer, J. P. Morgan & Co. rendering opinion regarding extension of the Long Dock Company bonds-----	12044	12284
1754-1. Letter, dated December 14, 1935, from Davis Polk Wardwell Gardiner & Reed, to J. P. Morgan & Co. regarding extension of the Long Dock Company consolidated mortgage 6 percent bonds-----	12044	12285
1754-2. Memorandum, dated August 20, 1935, by John M. Meyer, J. P. Morgan & Co., for J. Howland Auchincloss, Davis Polk Wardwell Gardiner & Reed, covering list of drafts relative to Long Dock Company financing-----	12044	12285
1755. Letter, dated November 1, 1939, from Allen Wardwell, Davis Polk Wardwell Gardiner & Reed, to H. C. Alexander, J. P. Morgan & Co., regarding opinion dated May 29, 1934, covering section 21a (1) of Banking Act of 1933 relative to functions of J. P. Morgan & Co.-----	12044	12286
1756. Appears in Hearings, Part 22, p. 11795-----	12046	-----
1757. Appears in Hearings, Part 22, p. 11826-----	12046	-----

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Introduced at page	Appears on page
1758-1. Letter, dated December 9, 1939, from C. B. Sawyer, president, the Brush Beryllium Company, to Senator O'Mahoney enclosing letter supplementing his testimony ¹ -----	12047	12286
1758-2. Letter, dated May 17, 1939, from C. B. Sawyer to Hugh B. Cox, Special Assistant to the Attorney General, regarding his testimony and that of A. J. Gahagan ¹ -----	12047	12287
1758-3. Chart: Tensile strength of various metals compared with beryllium-----	12047	12290
1759-1. Appears in Hearings, Part 22, appendix, p. 11797-----	12048	-----
1759-2. Appears in Hearings, Part 22, appendix, p. 11798-----	12048	-----
1760-1. Certificate of incorporation of Morgan Stanley & Co., Inc.-----	12049	(²)
1760-2. Certificate of change of name of Morgan Stanley & Co., Inc., to Morgan Stanley & Co. Incorporated-----	12049	(²)
1760-3. Certificate of increase of the amount of capital stock of Morgan Stanley & Co. Incorporated-----	12049	(²)
1760-4. Certificate of change of provisions of its certificate of incorporation of Morgan Stanley & Co. Incorporated-----	12049	(¹)
1761. Letter, dated November 27, 1939, from Harold Stanley, president, Morgan Stanley & Co. Incorporated, to Peter R. Nehemkis, Jr., transmitting information regarding holders of common and preferred stock of Morgan Stanley & Co., Incorporated. Table: Morgan Stanley & Co., Incorporated, common stockholders of record as at August 31, 1939. Table: Morgan Stanley & Co., Incorporated, common stockholders of record as at September 16, 1935. Table: Morgan Stanley & Co., Incorporated, preferred stockholders of record as at August 31, 1939. Table: Morgan Stanley & Co., Incorporated, preferred stockholders of record as at September 16, 1935.-----	12052	12291
1762. Table: Morgan Stanley & Co., Incorporated, issues underwritten or participated in during period September 16, 1935, through June 30, 1939-----	12058	Facing 12291
1763. Table: Morgan Stanley & Co., Incorporated, issues managed or co-managed during period September 21, 1935, through April 3, 1939, giving dates of offering prospectus, names of issuers, titles and amounts of issues, names of syndicate managers, counsel for underwriters, advertising agencies, engineering and appraisal firms, and accounting firms-----	12058	Facing 12291
1764-1. Table: Utility issues managed or co-managed by Morgan Stanley & Co., Incorporated, September 16, 1935-June 30, 1939-----	12067	12293
1764-2. Table: Industrial and railroad issues managed or co-managed by Morgan Stanley & Co. Incorporated, September 16, 1935-June 30, 1939-----	12067	12295
1765. Letter, dated January 2, 1929, from Thomas S. Lamont, J. P. Morgan & Co., to Lansing P. Reed, Davis Polk Wardwell Gardiner & Reed, enclosing advertising circulars regarding various investment trusts which make little pretense of diversification and whose purpose is to insure control by bankers and their clients-----	12070	12296

¹ See Part 5, pp. 2012 ff and 2079 ff.² On file with the Committee.

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Introduced at page	Appears on page
1766-1. Report to the stockholders of the United Corporation for the year ended December 31, 1934-----	12071	(¹)
1766-2. Report to the stockholders of the United Corporation for the year 1938-----	12071	(¹)
1766-3. Table: Approximate percentage of capital in J. P. Morgan & Co. and approximate percentage of Morgan Stanley & Co., Incorporated, preferred stock in comparison with total held by Morgan partners and their assignees-----	12086	12296
1767-1. Table: Relative participations in utility issues managed or comanaged by Morgan Stanley & Co., Incorporated, 1935-39. Schedule B: Issues other than those of Consolidated Edison Co. of New York, Inc., and its subsidiaries-----	12093	12297
1767-2. Schedule of deposits with and loans by J. P. Morgan & Co.-----	12096	(²)
1768-1 Letter, dated March 6, 1939, from Peter R. Nehemkis, Jr., to J. P. Morgan & Co. requesting data in connection with study of investment banking-----	12096	12298
1768-2. Letter, dated March 15, 1939, from J. P. Morgan & Co. to the Securities & Exchange Commission submitting data in response to request of March 6, 1939, including: Lists of corporations and governments for which J. P. Morgan & Co. perform one or more of the following services: Payment of coupons; sinking fund administration; payment of matured, called, or converted securities; registration or transfer of bonds or stock; payment of dividends. Lists of corporations and other institutions of which partners of J. P. Morgan & Co. are directors or trustees. Lists of corporations and other institutions of which employees of J. P. Morgan & Co. are directors or trustees as a result of an interest of J. P. Morgan & Co. Public announcements upon formation of Morgan Stanley & Co., Incorporated, dated September 6, 1935, and additional information on question of interest of J. P. Morgan & Co. or a partner thereof in Morgan Stanley & Co., Incorporated. Table: Principal amounts of bonds purchased by J. P. Morgan & Co. in Morgan Stanley & Co., Incorporated, bond issues-----	12096	12298
1769. Table: Participation of J. P. Morgan & Co. in issues of Consolidated Gas Co. and subsidiaries, 1919-32--	12096	12310
1770. Table: Participations of Blyth & Co., Inc., in issues managed by Morgan Stanley & Co., Incorporated, September 16, 1935, to June 30, 1939-----	12096	12312
1771. Table: Relative participations in utility issues managed by Morgan Stanley & Co., Incorporated, 1935-39. Schedule A: Issues of Consolidated Edison Co. of New York, Inc., and its subsidiaries-----	12097	12314
1772. Table: Financing of Consolidated Edison Co. of New York, Inc., and its subsidiaries by Morgan Stanley & Co., Incorporated, September 16, 1935, to June 30, 1939-----	12097	12315

¹ On file with the Committee.² On file with the Securities & Exchange Commission.

SUPPLEMENTAL DATA

Number and summary of exhibits	Intro- duced at page	Appears on page
Unnumbered. Letter from N. R. Danielian, Senate Committee on Education and Labor, to Hon. Joseph C. O'Mahoney, dated January 10, 1940, stating that the American Telephone & Telegraph Company at no time has taken exception to facts presented in testimony of December 15, 1939.		12316
Unnumbered. Extract from memorandum of corrections submitted by Arthur H. Dean, Sullivan & Cromwell, counsel, to Albert H. Gordon.		12316
Unnumbered. Copy of letter from Lyman Delano, chairman of Board, Atlantic Coast Line Railroad Company to W. C. Potter, Guaranty Trust Company, dated April 30, 1935, regarding Guaranty Trust Company having been designated as trustee of \$12,000,000 10-year collateral trust notes.		12317
Unnumbered. Copy of letter from George Whitney, J. P. Morgan & Co., to Leon Henderson, Securities & Exchange Commission, dated January 25, 1940, submitting amplification of answers made in testimony of December 19, 1939, regarding functions by underwriting houses.		12317
Unnumbered. Letter from Davis Polk Wardwell Gardiner & Reed to J. P. Morgan & Co., dated September 13, 1935, regarding the incorporation and organization of Morgan Stanley & Co., Incorporated.		12318
Unnumbered. Letter from Peter R. Nehemkis, Jr., to George Whitney, J. P. Morgan & Co., dated January 23, 1940, requesting information supplementing testimony.		12320
Unnumbered. Letter from George Whitney to Peter R. Nehemkis, Jr., dated January 26, 1940, submitting supplementary information.		12321
Unnumbered. Letter, from E. H. York, Jr., vice president, Morgan Stanley & Co., Incorporated, to Peter R. Nehemkis, Jr., dated February 15, 1940, listing sales of securities since September 1935, by companies for which J. P. Morgan & Co. and Drexel & Co. sold securities from 1921 to 1933.		12321
Unnumbered. Letter, from Peter R. Nehemkis, Jr., to E. H. York, Jr., dated March 4, 1940, commenting on list submitted.		12323
Unnumbered. Letter, from Harold Stanley, president, Morgan Stanley & Co., Incorporated, to Peter R. Nehemkis, Jr., dated March 12, 1940, replying to letter of March 4, 1940.		12324
Unnumbered. Letter, from J. P. Morgan & Co. to Peter R. Nehemkis, Jr., dated October 26, 1939, submitting revision of "Exhibit No. 1768-2" listing directorates and trusteeships held by partners.		12325
Unnumbered. Letter, from Peter R. Nehemkis, Jr. to Henry C. Alexander, J. P. Morgan & Co., dated November 15, 1939, inquiring as to participation of partners who were corporate directors in discussions and voting on security issues.		12327

SCHEDULE OF EXHIBITS—Continued

Number and summary of exhibits	Intro- duced at page	Appears on page
Unnumbered. Letter, from Henry C. Alexander to Peter R. Nehemkis, Jr., dated December 7, 1939, setting forth information in response to letter of November 15, 1939-----		12328
Unnumbered. Letter, from Irving S. Olds, United States Steel Corporation, to Peter R. Nehemkis, Jr., dated October 10, 1939, submitting copy of minutes of meeting of board of directors held on May 31, 1938-----		12330
Unnumbered. Letter, from Peter R. Nehemkis, Jr., to Russell C. Leffingwell, J. P. Morgan & Co., dated January 29, 1940, requesting amplification of testimony-----		12337
Unnumbered. Letter, from Russell C. Leffingwell to Peter R. Nehemkis, Jr., dated February 2, 1940, submitting list of United States Government obligations held by J. P. Morgan & Co. and Drexel & Co., classified as tax exempt and taxable as to surtax-----		12337
2163. Memorandum, by R. C. Leffingwell, J. P. Morgan & Co., dated December 1939, supplementing testimony-----		12338

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

FRIDAY, DECEMBER 15, 1939

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:20 a. m., pursuant to adjournment on Thursday, December 14, 1939, in the Caucus Room, Senate Office Building, Senator Joseph C. O'Mahoney presiding.

Present: Senator O'Mahoney (chairman), Messrs. Henderson, Avildsen, and Brackett.

Present also: Willis J. Ballinger, Federal Trade Commission; Ganson Purcell, Securities and Exchange Commission; Holmes Baldridge, Department of Justice; Clifton M. Miller, Department of Commerce; Charles L. Kades, Treasury Department; Peter R. Nehemkis, Jr., special counsel; David Ryshpan, financial analyst; W. S. Whitehead, security analyst, and Samuel M. Koenigsberg, associate counsel, Investment Banking Section, Securities and Exchange Commission.

The CHAIRMAN. The committee will please come to order. The hearing this morning will open with a statement by Commissioner Henderson.

INTRODUCTORY STATEMENT ON AMERICAN TELEPHONE & TELEGRAPH CO. FINANCING

Mr. HENDERSON. This morning the S. E. C., through its Investment Banking Section, would like to present to the committee a case history of the financing of America's largest corporation by America's leading bankers. This story involves the financing of the American Telephone & Telegraph Co., beginning with the year 1906 and ending with the last piece of financing in 1939. During this period, when J. P. Morgan & Co. assumed the leadership over the financing of the telephone company, A. T. & T. was relatively a small enterprise. It had assets of about \$530,000,000. The number of Bell telephones was about 2,800,000. Today, A. T. & T. and its associated companies have assets in excess of \$5,000,000,000 and almost 16½ million Bell telephones are in use.

That the services of the bankers in providing a large part of the capital required for this expansion was a matter of the greatest moment to the A. T. & T. goes without saying.

That the capital was provided at the lowest cost and in a manner most in the public interest is a question which cannot be answered. For at no time during this entire period did the bankers or the

company consider any alternative method of financing than that of direct dealings with a single banking group.

I quote now from a letter of Lee, Higginson & Co. to Frederick P. Fish, president, American Telephone & Telegraph Co., dated February 15, 1905 [reading from "Exhibit No. 1708"].

As we think we have made it apparent to your Company ever since our firm and Messrs. Speyer & Co. provided for the last capital requirements, we are anxious to be afforded an opportunity to show on what terms we can provide the fresh capital desired by the Company for the coming year. We do not ask to suggest that we should be given the slightest preference over any other banking firms. The Company is in sound financial condition, and we submit that there is no reason, based on the condition of the Company in the present market situation, why the Company should not provide for its wants on the best terms available, and we think it a fair statement to say that the Company cannot determine what these are if it permits a single firm only to lay before it a plan to provide for its financial requirements.

The first witness will present testimony dealing with the background of the telephone industry, and through him there will be developed the events which resulted in the exclusive financial relations between the powerful banking group headed by J. P. Morgan & Co. and the American Telephone & Telegraph system.

Subsequent witnesses will develop the story of the manner in which the telephone company has been financed, and one of the principal perquisites to the bankers flowing therefrom—the profits from underwriting.

Mr. Chairman, in presenting the first witness we have a unique opportunity. If we were as an S. E. C. unit to present the material he will present, it would have required men on our staff to spend literally months in the examination of documents. There was, as you know, an inquiry into A. T. & T. by the Communications Commission, and it is fortunate that an economist who undertook to follow the early history of the A. T. & T. and the companies which went to make it up is available. We are, therefore, in the position of presenting an expert witness of our own choosing, you might say, whose information comes from another investigation set in motion by the Congress of the United States. I think it will develop from the testimony that this committee is fortunate in availing itself of this opportunity for a condensation of what represents literally months of inquiry. I think, Mr. Nehemkis, the questions that you will address relate particularly to the financing and not to the A. T. & T. itself. Is that correct?

Mr. NEHEMKIS. That is correct, sir.

I call Dr. N. R. Danielian, please.

The CHAIRMAN. Do you solemnly swear that the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Dr. DANIELIAN. I do.

TESTIMONY OF DR. N. R. DANIELIAN, WASHINGTON, D. C.

Mr. NEHEMKIS. Mr. Chairman, I should like to read into the record a statement of the qualifications of this witness.

Dr. Danielian holds the degrees of A. B., A. M., and Ph. D. from Harvard University. He was instructor in the Department of Economics at Harvard University from 1929 to 1935. In 1932, while at

Harvard, he assisted Dr. W. W. M. Splawn, counsel of the House Committee on Interstate and Foreign Commerce, in that committee's investigation of utility holding companies.

In 1933 he participated in the study of stock-market operations, conducted by the Twentieth Century Fund. In 1935 he was appointed financial and utility expert in the telephone investigation conducted by the Federal Communications Commission under Public Resolution No. 8, Seventy-fourth Congress, and continued in that capacity until 1938. Since then he has been director of research for the Subcommittee on Education and Labor under Senate Resolution 266, otherwise known as the Senate Civil Liberties Committee.

Dr. DANIELIAN, do you accept as a true and correct statement the résumé I have just read into the record?

Dr. DANIELIAN. I do.

Mr. NEHEMKIS. So that the record may be complete, will you state your full name and address, Mr. Danielian?

Dr. DANIELIAN. N. R. Danielian, Washington, D. C.

Mr. NEHEMKIS. Very briefly, will you state for the record your duties in connection with the telephone investigation by the Federal Communications Commission?

Dr. DANIELIAN. I was in charge of the economic studies of the telephone investigation under the direction of the chief accountant.

The CHAIRMAN. The chief accountant of whom?

Dr. DANIELIAN. Mr. John H. Bickley.

The CHAIRMAN. Chief accountant for the F. C. C.?

Dr. DANIELIAN. The telephone investigation.

The CHAIRMAN. He was accountant of the Federal Communications Commission?

Dr. DANIELIAN. That is right.

Mr. NEHEMKIS. And you also participated, did you not, Dr. Danielian, in the preparation of the reports on the investigation?

Dr. DANIELIAN. I did. I prepared some of the reports personally and participated in the preparing of others.

Mr. NEHEMKIS. And you are the author, are you not, of a recent publication called "A. T. & T., The Story of Industrial Conquest"?

Dr. DANIELIAN. That is correct.

Mr. NEHEMKIS. Dr. Danielian, may I ask you a question concerning the documentation upon which your testimony is predicated. Do I understand correctly that the 83 exhibits which will be offered in connection with your testimony are matters of official record in the files of the Federal Communications Commission?¹

Dr. DANIELIAN. All but about 10 documents are on file at the Federal Communications Commission, having been introduced in official proceedings before the Commission in Special Investigation Docket No. 1. I think about 5 documents were obtained from A. T. & T. recently. They are not matters of record with the F. C. C. There are a few others which I think the S. E. C. made available to me in connection with the preparation of this particular testimony.

The CHAIRMAN. Are any of these documents that were introduced in the F. C. C. study challenged by anybody?

Dr. DANIELIAN. These documents were presented in the following fashion: They were accumulated in the course of the investigation.

¹ Subsequently entered as "Exhibits Nos. 1659-1 to 1659-83," appendix, pp. 12115-12290.

Photostatic copies were obtained from the company, and I might add that the photostats filed with the Federal Communications Commission have in back of them the authentication of the company to the effect that they were taken from the files of the company. I followed that procedure personally in obtaining these documents from the company.

The CHAIRMAN. So far as the documents which have been taken from the F. C. C. study is concerned, they have all been authenticated?

Dr. DANIELIAN. That is right.

The CHAIRMAN. Could you separate those from the others to which I referred so we could put them in? Or could that be done without much difficulty?

Mr. NEHEMKIS. Suppose I offer these later?

The CHAIRMAN. What is the authentication of the other documents to which you refer?

Dr. DANIELIAN. The files that were obtained from the company recently have a letter of transmittal by Mr. W. Shelmerdine, of the company. The others that were made available to me by the Securities and Exchange Commission—

Mr. NEHEMKIS (interposing). We assume responsibility for their authenticity.

The CHAIRMAN. Unless there is objection, then each of these documents may be presented and entered into proceedings when offered.

Mr. AVILDSSEN. Are you at present connected with any Government departments or universities?

Dr. DANIELIAN. I am at the present time director of research for the Senate Civil Liberties Committee, a subcommittee of the Senate Committee on Education and Labor under Senate Resolution No. 266.

Mr. HENDERSON. I might say that I communicated with Senator La Follette and asked his permission to have Dr. Danielian appear today, and it was graciously accorded.

EARLY DEVELOPMENT OF BELL SYSTEM AND ITS CAPITAL REQUIREMENTS

Mr. NEHEMKIS. Dr. Danielian, will you state for the committee briefly the history of the development of the Bell System prior to 1900?

Dr. DANIELIAN. Briefly, the original Bell patents were under the control of Alexander Graham Bell and his father-in-law, Gardiner G. Hubbard. This situation obtained until 1878. In that year, on account of the financial requirements of the System, they had to obtain capital from Boston financial and commercial interests. In connection with the sale of the stock of the Bell Telephone Co. in that year to these Bostonians, they had to concede to those Bostonians control of the Bell patents. That was done by a by-law of the corporation which reads as follows:

The holders of $\frac{1}{3}$ of the stock for which money has been paid and subscribed shall for the space of two years have an equal right and power with the holders of the $\frac{2}{3}$ reserved to the patentees.

Thus within 2 years the inventor and his original backer lost control of the patents to these commercial and financial interests of Boston. In 1879, Hubbard was only a director, and Alexander Graham Bell was given the official title of electrician.

The new group and their friends remained in power for the succeeding quarter of a century. A study of the personnel of the boards and executive committees of A. T. & T. and its predecessors indicates that these Bostonians remained in power until 1902. In the intervening period, from 1902 to 1907, the control of the corporation was a matter of contest.

Mr. NEHEMKIS. Dr. Danielian, will you tell me how the Bell System covered its capital requirements during this period of which you have been speaking?

Dr. DANIELIAN. The capital requirements of the System during this period were covered principally by the sale of stock to its stockholders and by the reinvestment of earnings and surplus. In the period up to 1898 only a very small amount of bonds and notes were issued, about \$8,000,000, and even those were sold to stockholders pro rata. It was not until 1898 that the System issued bonds for sale through banking houses. Between 1898 and 1905, inclusive, the System issued some \$78,000,000 of bonds, of which all but 25 millions were sold to bankers after competitive bids were permitted.

Mr. NEHEMKIS. As I understand you to say, the sale of the System securities during this period was through what we know as competitive bidding.

Dr. DANIELIAN. That is correct.

Mr. NEHEMKIS. During this period, Dr. Danielian, the Bell System had no sustained relations with any single banking house or group, did it?

Dr. DANIELIAN. There do not appear to be any habitual relations with any banking house.

Mr. NEHEMKIS. Dr. Danielian, will you be good enough to describe briefly the financial needs facing the Bell System at the turn of the century?

Dr. DANIELIAN. The financial requirements of the Bell System, of course, were defined by the business situation in which the System found itself at the time. It will be recalled that in 1893 and 1894 the Bell patents expired, and after that there was great competition from independent telephone interests. As a result of this competition there was great impetus to the expansion of telephones; whereas in 1893-94 there were only 266,000 telephones in use by the Bell System—and the Bell System was a monopoly at that time—10 years later the Bell System itself had 1,317,000 stations, and the independents in the course of the 10 years had themselves developed 1,053,000 stations, which together meant total telephones in use of 2,371,000, which indicates a tremendous expansion in that period. It also means that the Bell System was really being pushed by the independents to supply service to the country. Furthermore, at that time the Bell System had adopted—the American Bell Telephone Company, which was a predecessor of A. T. & T.—adopted the policy of acquiring control by purchasing of stock of subsidiary operating companies. That also necessitated new money.

Mr. NEHEMKIS. Did the company during this period, Dr. Danielian, seek to broaden the market for its securities?

THE MANAGEMENT LOOKS TO NEW YORK FOR ADDITIONAL CAPITAL

Dr. DANIELIAN. It does appear that the management of A. T. & T. was beginning to look outside of New England to find sources of funds. They naturally looked toward New York to supply some of their needs. The financial requirements as well as the amount to go outside of New England are perhaps best described in these two documents.

Mr. NEHEMKIS. Which documents?

Dr. DANIELIAN. The one is a memorandum from Theodore N. Vail to Senator W. M. Crane, of Massachusetts, in 1901. I believe that was just prior to the election of Mr. Crane to the Senate, in which Mr. Vail described the financial needs as follows [reading]:

The worst of the opposition has come from the lack of facilities afforded by our companies—that is, either no service or poor service. For this, circumstances beyond control are to a great extent responsible, as it was, in the early days, very difficult to provide money.

To meet these increasing demands, increasing amounts of money will be needed each year. A low estimate for the next five years would be \$200,000,000—every probability points to a larger sum.

These demands necessitate a broad financial policy covering a period of no less than five years. . . .

The other communication is from Henry Lee Higginson to Frederick P. Fish, who was president of the A. T. & T. from 1901 to 1907. In this letter, which is dated April 8, 1904, Mr. Higginson stated to Mr. Fish [reading from "Exhibit No. 1659-7"]:

Of course, we agree with your views entirely that you need a new market, and we think this can be accomplished by dealing with Speyer. We know as well as anybody can that the telephone securities are as good as can be, but they have not interested the public yet, outside of New England, very much, and the company has not got the standing which it deserves, and which it will have by and by. The New Yorkers are always shy of new things from this part of the country. We think Speyer can help to distribute the securities elsewhere.

I think that these documents indicate, on the one hand, that the company needed a large-scale financing and, on the other hand, that the management was looking outside of New England for a source of capital.

Mr. NEHEMKIS. Now, Dr. Danielian, will you describe rather briefly the negotiations for the sale of \$150,000,000 bonds to the Morgan syndicate?

Dr. DANIELIAN. Preliminary to that particular episode, perhaps a word should be said about the first attempt to obtain capital from New York. That came in 1902. In that year, in the month of March, Mr. Fish, the president of the A. T. & T., carried on negotiations with Mr. George F. Baker, Sr., for the sale of 50,000 shares of A. T. & T. stock.

The CHAIRMAN. What year was this?

Dr. DANIELIAN. 1902.

The CHAIRMAN. And prior to 1902, the Bell System was practically locally financed in New England?

Dr. DANIELIAN. That is correct.

The CHAIRMAN. And now you are describing the appeal to capital sources outside of New England?

Dr. DANIELIAN. That is right. In March of 1902, they concluded an agreement with George F. Baker, Sr., whereby the latter would take 50,000 shares of A. T. & T. stock at 153½. In connection with that agreement, provision was also made for the election of George F. Baker, Sr., and John I. Waterbury, who was then president of the Manhattan Trust Co., and was also associated with Mr. Baker in this particular deal—they were elected, these two, to the board of the A. T. & T. At the same time, Theodore N. Vail came into the directorate of the A. T. & T. Mr. Vail became associated with this system in the early days as general manager, but he had resigned in 1887 to devote himself to his personal affairs. For the first time since then he came back to the System with Mr. Baker and Mr. Waterbury as director of the company.

In the next 2 or 3 years, the question of large-scale financing was still to the fore, although in 1904 the System was again financed by a competitive offer of bonds.

Mr. NEHEMKIS. Do you recall which banking house at the time had made that offer, Dr. Danielian?

Dr. DANIELIAN. I think you have a tabulation there which indicates that.

Mr. NEHEMKIS. Well, it doesn't make any difference, we will bring it up later.

Dr. DANIELIAN. Lee, Higginson and Kidder, Peabody were quite active in bidding for the securities of the company at that time.

Now, in 1905, the proposition for large-scale financing received concrete expression. In February of that year a plan of financing was offered to the A. T. & T. by John R. Waterbury and associates. Correspondence indicates that these associates were J. P. Morgan & Co., and Kidder, Peabody. According to this plan of financing, \$85,000,000 of convertible bonds were to be issued. In addition, \$50,000,000 more, on which the bankers were to be given an option. This plan of financing was subject to a great deal of discussion in the company, for we have a memorandum indicating a joint expression of opinion by officers of the company on this plan of financing which involved the issue of convertible bonds.

Mr. NEHEMKIS. That was the \$150,000,000 which—

Dr. DANIELIAN. This, the original plan, involved the issue of really \$185,000,000 of convertible bonds and \$50,000,000 of other bonds. This was subjected to criticism by company officials, and in this memorandum which is dated, I believe, February 16, 1906—

Mr. NEHEMKIS. That is correct.

Dr. DANIELIAN. The officers of the company, namely, Vice President Sherwin, Treasurer Driver, and Attorney Leverett of the company, reach the following conclusion: They said [reading from "Exhibit No. 1659-9"]:

To our minds there is another risk in the proposed plan which should be had in mind. If a bankers syndicate should be formed, under the proposed plan, who should pool their bonds or place them in trust, the trust so formed, by exercising the option given for the conversion of bonds, would have the power to acquire so near an absolute controlling interest in this company as practically to control the whole assets of the company, which they could use for any schemes of financing that they saw fit. In short, having nearly one-half of the entire issued capital stock of the company, they could consolidate this company with other companies, or make any other arrangement in regard to its future

financing that they saw fit. This is a great and extremely valuable option and is equivalent, until the bonds are distributed or sold to the public, to a surrender of the powers of the management upon present officers and stockholders to a body of bankers who may work to the disadvantage of the present stockholders in the promotion of other schemes of consolidation.

The CHAIRMAN. Who is the author of that statement?

Dr. DANIELIAN. This memorandum was prepared by Vice President Sherwin, Attorney Leverett, and Treasurer Driver of A. T. & T., on the plan of financing proposed by Waterbury and associates.

The CHAIRMAN. And to whom was the memorandum submitted?

Dr. DANIELIAN. To Mr. Fish, the president.

There were other criticisms. Senator Crane, who was director of the system at that time, also said:

I am beginning to think—

This is a letter of the same date as this memorandum, February 15, 1906 [reading from "Exhibit No. 1659-11"]:

I am beginning to think that we ought to raise the necessary money by the sale of four percent collateral bonds without the conversion clause. We surely can find someone who will buy them at a reasonable price. The other proposition is intricate and uncertain and might lead to a great deal of trouble.

Pursuant to these opinions, Mr. Fish, by letters dated February 20, 1905, to J. P. Morgan & Co., John I. Waterbury, George F. Baker, Sr., declined this plan of financing.

Mr. HENDERSON. That is, basing it on their conclusions which you have read from this memorandum?

Dr. DANIELIAN. I assume that was the basis on which Mr. Fish declined the offer, although in his letter he said that there were too many intricacies in the plan to proceed at the time.

In 1905, instead of this plan of financing, the company issued \$20,000,000 of 5-percent gold-coupon notes, which were sold to Lee, Higginson & Co., and Speyer & Co., after competitive bids were offered.

In the fall of 1905 the plan for large-scale financing was revived again, and in December a stockholders' meeting was called to approve the issue of \$150,000,000 of convertible bonds. Prior to the meeting, Mr. Fish submitted the circular letter to stockholders which he was planning to send, to Mr. Baker and Mr. Waterbury for their criticisms, and he obtained their suggestions by letter dated November 21, 1905, and then proceeded with the stockholders' meeting. In connection with that meeting, the president, Mr. Fish, had to canvass, to some extent, for proxies to the meeting of the stockholders. In fact, to the best of my knowledge, for the first time in the company's history a regular proxy committee was formed, with the names of the committee members on the proxy form and no opportunity was given on the proxy form for the substitution of the stockholders' own attorney.

On December 21 the stockholders did approve by two-thirds vote the issues of \$150,000,000 of convertible bonds by the board of directors. There was no statement in this resolution with regard to the conditions under which the bonds were to be issued. There was also some criticism from certain large stockholders as to the advisability of this bond issue.

In the succeeding month, January 1906, Mr. Fish was in constant negotiation with Mr. Waterbury, in conferences with Mr. Crane, one of the members of the board of directors.

Mr. HENDERSON. Dr. Danielian, will you tell me again who Mr. Fish and Mr. Waterbury were, what interests they represented, and what positions they held?

Dr. DANIELIAN. Mr. Fish was the president of A. T. & T. from 1901 to 1907. Mr. John I. Waterbury was the president of Manhattan Trust Co., and he became a member of the board of directors of A. T. & T., with George F. Baker, Sr., on the occasion of the sale of the 50,000 shares of A. T. & T. stock in 1902, and Mr. Waterbury was associated with Mr. Baker and later with J. P. Morgan & Co. in the financing that they then proposed to A. T. & T. Mr. Crane was Senator from Massachusetts and was elected a director of A. T. & T. in 1903.

Mr. NEHEMKIS. Will you proceed, sir.

Dr. DANIELIAN. During the month of January negotiations were being carried on with the bankers. At the same time, other bankers were insistently trying to obtain an opportunity to bid for the proposed financing.

Mr. NEHEMKIS. In other words, the situation then was in some respects not different from the situation as prevails now, in general?

Dr. DANIELIAN. I wouldn't want to express an opinion on that because I haven't studied the situation now as thoroughly as I have studied its past history.

Mr. NEHEMKIS. Very well, sir.

Dr. DANIELIAN. Speyer & Co., associated with Lee, Higginson & Co., tried to obtain an opportunity to bid, Salomon & Co. insistently attempted to secure an opportunity to bid for bonds, and Lee, Higginson & Co. also tried to have such opportunity.

Mr. HENDERSON. They were trying to get, if I understand you correctly, the right to make a bid.

Dr. DANIELIAN. That is right.

There are several letters pertaining to this. I would like to read only part of one, part of a letter from Lee, Higginson & Co., dated February 1, 1906, which was only 7 days before the bonds were actually sold to J. P. Morgan & Co. and Kidder, Peabody & Co. Apparently, in this letter, Lee, Higginson wanted to go on record. In this letter, the banker stated [reading from "Exhibit No. 1659—19"]:

In order that there may be no misunderstanding about our position, I beg to say that, representing a syndicate formed by Messrs. Speyer & Co. of New York and ourselves, we would be glad to have an opportunity to bid on such new securities as the Telephone Company may contemplate issuing.

At present, we do not know sufficient details as to the character of the securities and the amount to be issued, to formulate an offer.

We are ready to make an offer for these securities on short notice, if we are put in a position by the Company to do so.

The CHAIRMAN. You spoke of other letters. Do you mean other letters of a similar character?

Dr. DANIELIAN. Yes; if you wish, I could read one from Salomon & Co.

The CHAIRMAN. I would like to have you do that.

Dr. DANIELIAN. Yes; this is dated January 27, 1906, 4 days before the Lee, Higginson letter. A letter from President Fish to William Salomon, which indicates Mr. Fish's attitude on competitive bids [reading from "Exhibit No. 1659—18"]:

Nothing has been done as yet but the condition is such that I must be very careful in all cases not to give any encouragement to any parties in the matter referred to.

I very much appreciate your continued interest in our financial affairs, and it would give me great pleasure to be in a position to utilize your very efficient organization and capacity, but there are innumerable considerations that must be taken into account and it is entirely impossible for me to say what can or what cannot be done.

And two days later Mr. Salomon replied to this letter, on January 29 [reading from "Exhibit No. 1659—18"]:

I understand from your telegram and letter that the matter is still open, and I would like to learn whether it may be possible to allow me to make for myself, associated with a satisfactory group, a competitive offer. Your policy has always been that of allowing competitive tenders to be made and I do not understand from your letter that it is your intention to follow a different policy in this instance.

To which, on January 30, Mr. Fish replied.

THE CHANGE FROM COMPETITIVE TO NONCOMPETITIVE FINANCING

The CHAIRMAN. Does your examination of the history of the financing of this company bear out the statement that you have just read, namely, that up to this time when new capital was sought it was obtained by competitive bidding?

Dr. DANIELIAN. That is correct.

The CHAIRMAN. And you are now discussing the period when the change was made from the competitive-bidding system to the placement system?

Dr. DANIELIAN. That is right.

Mr. NEHEMKIS. By that you mean—you said, "That is right." By the latter part of the Senator's statement, your acquiescence meant direct negotiations?

The CHAIRMAN. What I meant was the selection of a particular house or group to carry on the financing without competitive bidding.

Mr. NEHEMKIS. That is your understanding of the situation, isn't it, Dr. Danielian?

Dr. DANIELIAN. That is true; but that is predicated upon relationship between the banking group and the corporation which makes that kind of a procedure in the sale of bonds possible, in other words, a more intimate relation between one banking group and the management of a corporation, in which the noncompetitive sale of bonds is one of the elements.

The CHAIRMAN. What I am trying to bring out is that you are now discussing the change from the competitive to the noncompetitive system?

Dr. DANIELIAN. That is correct.

The CHAIRMAN. Now then, the letter of President Fish referred to considerations which should be taken into account. Do you know what those considerations were? Does your study provide any information on that point?

Dr. DANIELIAN. Frankly, that is one of the mysteries I have not been able to solve. It is one of those difficult problems on which evidence cannot be obtained, as to what was going on in Mr. Fish's mind at the time he was negotiating with this particular banking group. I am unable to explain, in other words, what considerations led Mr. Fish to change his policy from one of offering competitive bids to one of dealing only with one banking group.

The CHAIRMAN. As a student of this financing problem, what considerations would suggest themselves to your mind as being of sufficient importance to dictate the dropping of the competitive system and the adoption of the noncompetitive system of disposing of securities?

Dr. DANIELIAN. Possibly the fact that a contractual arrangement with a banking group providing for financing over a certain number of years, large-scale financing, may be one consideration. In other words, the contract, after it was consummated, called for the issuance of bonds in installments over a period of 2 years, from 1906 to 1908, these installments to be taken by the bankers at specified dates.

Now, perhaps that facility of insuring the obtainment of funds over a long period of time may have been one of the considerations that led the company to make this particular kind of arrangement, but that is only conjectural on my part because I have no documentary evidence to indicate what the motives were.

The CHAIRMAN. I appreciate that fact, but I wasn't asking you for any evidence, I was asking for your own conclusions from your own study, as to what considerations might suggest themselves to your mind as indicating any advantage of one system over the other, noncompetitive over the competitive, if there is such an advantage.

Mr. HENDERSON. Could I ask a question?

The CHAIRMAN. You want to amplify the question?

Mr. HENDERSON. Yes; because I am interested also, Senator. Do you think that the coming of Mr. Waterbury into the situation in the way you described had anything to do with the departure from the competitive and the selection of a single group?

Dr. DANIELIAN. I think that Mr. Waterbury and one or two of his associates were insistent on having this exclusive relation with the company; that is, the original plan of financing contemplated, the one that was declined early in 1905, contemplated exactly this sort of relationship. As to why Mr. Waterbury insisted on that, I think the rest of the investigation will probably show.

Mr. MILLER. May I ask the witness a question, Mr. Chairman? In 1905 was not \$150,000,000 a very large piece of financing?

Dr. DANIELIAN. I assume so; yes.

Mr. MILLER. I mean very large. Had there been any financing in your studies approaching that in size?

Dr. DANIELIAN. I don't recall of any occasions as early as that involving 150 millions.

Mr. HENDERSON. What about the financing of the Steel Corporation?

Dr. DANIELIAN. In 1901?

Mr. HENDERSON. It was a larger amount, was it not?

Dr. DANIELIAN. But may I make one distinction there? The contract called for the sale of 100 millions of bonds in installments of 10 millions, with the exception of 1 installment which was 30 mil-

lions in 1907, over a period of nearly 2 years, and that the other 50 millions were optional with the banks, they didn't have to take the additional 50 millions if they didn't want to exercise the option. So really this was a firm commitment for 100 millions over a period of 2 years.

The CHAIRMAN. Doctor, going back to my question, which was merely an attempt to elicit your expert opinion and not an attempt to develop any facts, because you have testified that you have been unable to find the facts bearing on this, I was merely asking you what considerations would suggest themselves to your mind as an expert in this matter, as indicating any advantage, if there is such an advantage, in the noncompetitive system over the competitive system of disposing of securities.

Dr. DANIELIAN. I mentioned one; namely, the ability to make long-term contract with a given banking group, to take care of financing over a period of time. Now, if these bonds were offered competitively, they would have to be offered, for instance, at different periods instead of providing for the financing over 2 years.

Another advantage that has been suggested by the bankers, of course, is the intimate knowledge which the bankers have of the company's needs and the greater security and, shall I say, dependability of a continued relationship with a banker, where the banker comes to the aid of the company at the time that the company needs financing—that has been offered as reason justifying that relationship. I have discussed this problem with bankers myself, and that is their position. On the other hand, of course, there are advantages offered for competitive buying: for instance, in the matter of reaching a price for the sale of bonds on a more rational basis than mere decision across the table, as to how much the bonds should be sold for, open-market conditions in determining the price at which the bonds can be sold to the public.

Mr. MILLER. Didn't the company here abandon the historical policy of piecemeal financing in small amounts, which could be submitted for competitive bids, and embark at this particular period on a long-term program which involved financial commitments going beyond the immediate issue and taking further issues into the program? In other words, this was a large amount of money and they changed the policy in order to assure themselves of this supply of funds, and they probably had a construction program that went hand in hand with it, involving forward expenditures for extensions. Is that not what happened?

Dr. DANIELIAN. Do I understand your questions correctly: Did the company make provision for long-time financing; is that the question?

Mr. MILLER. No; the question that I wanted to know is whether they abandoned the policy of piecemeal financing in which the company could get competitive bids, to adopt a long-term financial program here involving several years, and in order to do that, didn't they change their form of financing and therefore abandon the competitive system that they had previously used?

Dr. DANIELIAN. I stated that this particular financing provided financing over this 2-year period. That fact in itself I should think would answer the question.

Mr. BALLINGER. Wouldn't it have been possible to have competitive bids on long-term financing? In other words, there may have been other groups that may have wanted to put in a bid to distribute securities over a 2-year period.

Dr. DANIELIAN. From the letters of the other bankers, it does look as if they were ready to bid for financing.

Mr. BALLINGER. But they weren't given a chance.

Dr. DANIELIAN. In fact, there is evidence to indicate that Lee, Higginson & Co. wanted a two-thirds interest in the syndicate that was formed for the sale of this particular issue. They did not obtain it. They were kept out of this particular deal.

Mr. BALLINGER. But there is nothing inconsistent in competitive bidding on long-term financing. The idea that you can't have competitive bidding on long-term financing—I just wanted to ask your opinion about that. As I understand the question put to you, this contractual relation was entered into because the only way you can have competitive bidding on financing is when issuing piecemeal. It seems to me when you have a program you are going to put across in 2 years, you can open it up on the Street and say, "Let's have the highest bid that can handle this financing in 2 years."

Dr. DANIELIAN. That was a distinct possibility but it wasn't applied in this particular case.

Mr. BALLINGER. No; it wasn't; the market wasn't opened up.

Mr. MILLER. But long-term financing doesn't mean necessarily that the bonds were long in maturity. By the reference you make here to long-term financing, it is really a long-term program of financing, where there were financial commitments involved beyond immediate commitment for issues to be sold immediately, but an obligation to take further issues which was a firm obligation?

Dr. DANIELIAN. That is correct.

I would like to make this statement, that even though this financing was projected for a period of 2 years, the firm commitment on the part of the bankers was to buy the bonds. On the other hand, alternative banking groups were soliciting to see whether this particular issue under those same conditions could be sold to those others upon more favorable terms or not.

In other words, there are no alternatives in the situation whereby you can judge the wisdom of the particular transaction.

Mr. NEHEMKIS. Dr. Danielian, perhaps the committee should be informed that it is tentatively hoped, if the time and pleasure of the committee permit, at some later date, to explore this whole problem in its technical ramifications in much detail, but in view of the fact that there are a considerable number of witnesses yet to be heard, if it is the pleasure of the committee, may we proceed with the further development of the examination. Is that your pleasure, gentlemen?

Dr. Danielian, who was the leader of the successful syndicate?

Dr. DANIELIAN. J. P. Morgan & Co. was associated with Kidder, Peabody & Co. and Kuhn, Loeb & Co. in the purchase of this large issue of the bonds.

DIFFICULTIES IN DISPOSING OF THE 1906 BOND ISSUE

Mr. NEHEMKIS. Did not the syndicate experience certain difficulties in getting rid of the bonds?

Dr. DANIELIAN. These bonds were contracted for on February 8, 1906, and 30 millions of them were taken in the course of 1906. None of these bonds were offered to the public in 1906.

In January 1907 the bankers went back to the company and obtained certain concessions on the price of the bonds, concessions amounting to about 3 points on the face value of the bonds, and at the same time they agreed with the company to offer the bonds for public sale, which they did in February. They offered \$40,000,000 for sale in February, but they couldn't sell any more than about 10 millions of this offer. From then on until the syndicate was dissolved in June 1908 none of the bonds were offered for sale.

Mr. HENDERSON. In other words, the bankers carried those through that panic of 1907?

Dr. DANIELIAN. The bankers carried 90 millions of it which they had purchased in installments from 1906 to 1908 without selling it to the public.

Mr. HENDERSON. And if it hadn't been a strong banking group they wouldn't have been able to carry those in the way they did, is that correct?

Dr. DANIELIAN. Perhaps I should make a distinction between—I think that is correct, but I want to make a distinction between the managers of the syndicate and the syndicate itself.

A syndicate was formed on February 15, 1906. According to the syndicate contract, the subscribers, who were, of course, a large number of bankers all over the country, assumed the obligation to pay for these bonds 10 days before the managers of the syndicate had to buy the bonds from the company, and on the other hand, the syndicate contract provided that the bankers, the managers, would have complete control over the bonds, that the subscribers could not sell the bonds until the dissolution of the syndicate.

So that we have a situation here where the subscribers undertook all the liabilities incidental to the contract, and the managers, of course, undertook the obligations to manage and to distribute the bonds.

On the other hand, I must also state that the bankers, besides being the managers of the syndicate, also themselves participated in the syndicate by taking certain amounts for their account.

I think Morgan & Co. took \$3,588,000; J. S. Morgan & Co. took \$2,000,000; Kuhn, Loeb & Co., \$4,915,000; and Kidder, Peabody & Co. \$5,000,000 for its account and \$25,000,000 for distribution in New England.

Mr. NEHEMKIS. J. S. Morgan & Co. was the London banking house, was it not?

Dr. DANIELIAN. I think that is correct.

Mr. HENDERSON. During this period, the managers had on their shelves quite a bit of the inventory of this bond issue?

Dr. DANIELIAN. Yes; these amounts that I indicated are the extent of the financial liability of the managers, as participants in the syndicate.

Mr. MILLER. Was it a joint and several liability that these syndicate members had, where they were all liable for the whole?

Dr. DANIELIAN. No; they had limited liability.

Mr. MILLER. In those days, it is my recollection of the historic form of syndicate, that was the type of syndicate that was made, where everybody was liable; there was no several liability.

Dr. DANIELIAN. I don't think that is true of this syndicate. You have a copy of the syndicate contract that will be placed in the record.

Mr. NEHEMKIS. Then, if I understand your testimony correctly, up until this time we had a system of the company's placing its bonds through competitive bids. Following the \$150,000,000 issue under the leadership of J. P. Morgan & Co., the company entered into a system of direct negotiations with a banking group.

Is it your opinion, Dr. Danielian, based on these studies, that this situation has prevailed from that time?

Dr. DANIELIAN. That is true; since 1906 the bonds of the A. T. & T. have been sold to a single banking group managed by J. P. Morgan & Co.

Mr. NEHEMKIS. Mr. Chairman, gentlemen of the committee, this will conclude our testimony on this phase of the subject.

I should, while Dr. Danielian is still on the stand, like to offer in evidence 83 exhibits.

Mr. Chairman, normally I should not ask you to print so voluminous a number of exhibits, but I believe these documents are unique, and that for future students of the subject of corporate finance they will prove to be an invaluable case book of early financial transactions.

The CHAIRMAN. These are the documents to which reference was made earlier in the day?

Mr. NEHEMKIS. Correct, sir.

The CHAIRMAN. They have already been admitted.

Mr. NEHEMKIS. Dr. Danielian, in behalf of my staff, I want to express our deep thanks to you for the time you have given in the preparation of this material.

The CHAIRMAN. Do you have any choice as to whether they should be given different numbers?

Mr. NEHEMKIS. I have just arranged them for the convenience of the reporter in the order to which reference has been made in the testimony. They are numbered in sequence, 1 through 83.

(The documents referred to were marked "Exhibits Nos. 1659-1 to 1659-83" and are included in the appendix on pp. 12115-12200.)

The CHAIRMAN. Do any members of the committee desire to ask any additional questions of the witness?

So far as you know, Doctor, is there any controversy over any of the matters of fact to which you have referred this morning?

Dr. DANIELIAN. Of course, A. T. & T. has taken exception to the implications and conclusions that may have been derived. Perhaps, in order to be quite fair, I should depart from ordinary procedure of offering my own statement, the witness' statement, to the record, and offer instead the criticisms of A. T. & T. of the particular report of the F. C. C. from which some of these facts have been recited. In that way perhaps A. T. & T.'s position in these matters may be a part of the record, too.

The CHAIRMAN. It may be that the criticism of the F. C. C. report would cover matters which you have not covered.

Dr. DANIELIAN. It does cover a wider field.

The CHAIRMAN. My question was merely as to whether or not there is any controversy over the facts which you have yourself presented to the committee this morning, so far as you know.

Dr. DANIELIAN. I don't believe the facts are contested.

Mr. NEHEMKIS. Mr. Chairman, I think, as counsel to the committee, I should like to be heard on that point. I believe, to the best of my knowledge, that Dr. Danielian has confined his testimony to the exhibits, to the facts stated in the exhibits which have been offered and received, and, in my opinion, if I may venture to say, I do not think he has departed from strict facts as presented in the documentation, and I vouch for the statements.

The CHAIRMAN. That really wasn't the question. I am merely asking for his knowledge. He knows whether there is any controversy over these facts, and he tells us there is not, so far as he knows.

Mr. AVILDSSEN. Does this pamphlet contain criticisms of your report, the particular part of the work you did?

Dr. DANIELIAN. This particular document covers a report which I presented before the Federal Communications Commission on the control of A. T. & T., and it covers, of course, a wider field because that report covered the whole period from 1875 to 1935, during which the company's management went through different stages of development. This criticism is the company's response to that report, but I must state that the major part of that report concerns the control of the corporation, and consequently this particular document would not be directly related to the—

The CHAIRMAN (interposing). Is there anything in that which refers to the matters concerning which you have testified this morning?

Dr. DANIELIAN. No; except the first part, I think one section, about a page and a half.

The CHAIRMAN. Let the chairman suggest to you that you take that document and if there are any matters in it anywhere which refer to your testimony this morning, that you call it to the attention of the Chair so that it may be entered in the record,¹ merely expressing the opinion of the A. T. & T., so far as that goes, with respect to your particular testimony here. We just don't want to go afield.

Mr. BALLINGER. You suggested two reasons, Mr. Danielian, as to why this contract was given to the group headed by J. P. Morgan. Have you given any thought to the possibility that it might have been given because of the dominant position of the House of Morgan in investment banking, and their various means of control of reservoirs of funds and their ability perhaps to apply coercion, and so forth. I mean the whole history of the House of Morgan?

Dr. DANIELIAN. I have looked at it strictly from the point of A. T. & T.'s relations with the bankers, and the negotiations for these bonds, and I have not broadened myself into the general field of banking control of industry so far as this particular sale is concerned. I think a more intimate relationship did develop after the

¹ Dr. Danielian, under date of January 10, 1940, submitted the information requested. It is included in the appendix on p. 12316.

sale of these bonds between a particular banking house and this corporation, but I wouldn't care to comment as to the position of J. P. Morgan & Co. in the banking field in general.

Mr. NEHEMKIS. Thank you very much, Dr. Danielian.

Mr. Chairman, so that the record may be complete in all respects, I should like to offer a carbon copy of a letter from Commissioner Leon Henderson to the Honorable J. Lawrence Fly, Chairman of the Federal Communications Commission, dated December 1, 1939. It was pursuant to this letter that the exhibits previously offered into the record were made available to the Investment Banking Section. The letter described is offered.

(The letter referred to was marked "Exhibit No. 1660" and is included in the appendix on p. 12201.)

Mr. NEHEMKIS. The next witness is Mr. George Whitney. Mr. Whitney, please.

The CHAIRMAN. Do you solemnly swear the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. WHITNEY. I do.

The CHAIRMAN. You may be seated, Mr. Whitney.

TESTIMONY OF GEORGE WHITNEY, J. P. MORGAN & CO., NEW YORK, N. Y.

Mr. NEHEMKIS. Mr. Whitney, will you state your full name and address, please?

Mr. WHITNEY. George Whitney, Westbury, Long Island.

Mr. NEHEMKIS. What is your business or profession, Mr. Whitney?

Mr. WHITNEY. Banker.

Mr. NEHEMKIS. And you are associated with the banking firm of J. P. Morgan & Co.?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. And how long have you been associated with that firm, Mr. Whitney?

Mr. WHITNEY. Since 1915.

Mr. NEHEMKIS. And when did you become a partner of the banking firm of J. P. Morgan & Co.?

Mr. WHITNEY. December 31, 1919.

Mr. NEHEMKIS. Were you not prior to becoming a partner of the firm of J. P. Morgan syndicate manager and in charge of syndication?

Mr. WHITNEY. No.

Mr. NEHEMKIS. Were you ever associated with the bond department of J. P. Morgan & Co.?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. In what capacity?

Mr. WHITNEY. Member of it.

Mr. NEHEMKIS. What is the distinction between being a member of the bond department and being syndicate manager?

Mr. WHITNEY. Because there wasn't any such thing in our office. We had no allocated duties such as that.

Mr. NEHEMKIS. Mr. Whitney, weren't you really responsible for organizing and setting up the first American underwriting syndicate?

Mr. WHITNEY. No.

Mr. NEHEMKIS. Wasn't the first real syndicate, as we know it, organized by you and your associates?

Mr. WHITNEY. That is a different question.

Mr. NEHEMKIS. You understood the second question?

Mr. WHITNEY. Quite.

Mr. NEHEMKIS. Will you answer it, please.

Mr. WHITNEY. I would hate to claim quite as broad an inference as that, but I think substantially, yes.

Mr. NEHEMKIS. Mr. Whitney, I show you a series of sheets containing syndicate records of financing by your firm. I ask you to examine them and tell me whether you did not cause to have these sheets prepared in response to a request from me?

Mr. WHITNEY. Your request isn't here, is it?

Mr. NEHEMKIS. Mr. Alexander, I suggest you examine the carbon copy of a memorandum, the original of which was presented to you.

Mr. WHITNEY. I have no doubt that is correct. Yes, that is correct.

Mr. NEHEMKIS. May I suggest, Mr. Chairman, that either Mr. Alexander's appearance should be noted, since he will be assisting Mr. Whitney, or if it is your pleasure, perhaps you would prefer that he be sworn, if Mr. Whitney will rely upon his technical assistance.

The CHAIRMAN. If Mr. Alexander is to answer any questions and becomes a witness, then he should be sworn. Yes, he may be sworn.

Do you solemnly swear the testimony you are about to give, shall be the truth - the whole truth, and nothing but the truth, so help you God?

Mr. ALEXANDER. I do.

TESTIMONY OF HENRY C. ALEXANDER, J. P. MORGAN & CO., NEW YORK, N. Y.

Mr. NEHEMKIS. May I ask, Mr. Alexander, for you to state your full name?

Mr. ALEXANDER. Henry C. Alexander.

Mr. NEHEMKIS. And you are a partner of the firm of J. P. Morgan & Co.?

Mr. ALEXANDER. I am.

Mr. NEHEMKIS. And how long have you been a partner of that firm?

Mr. ALEXANDER. Since February 17, 1939.

Mr. NEHEMKIS. Did I understand you to identify these documents as coming from your firm?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. The documents identified by the witness are offered in evidence, Mr. Chairman.

Was the firm of J. P. Morgan & Co. interested in Telephone financing prior to the year 1906?

Mr. WHITNEY. Not as far as I know.

Mr. NEHEMKIS. It never had any participations in underwriting groups before the year 1906?

Mr. WHITNEY. Again, not as far as I know. I have never checked back. I don't think so.

The CHAIRMAN. The memorandum just handed to the chairman by counsel, entitled "Memorandum for Henry C. Alexander, Esq., re American Telephone & Telegraph Co. Financing," is admitted to the record for printing.

(The documents referred to were marked "Exhibits Nos. 1661-1 and 1661-2," and are included in the appendix on pp. 12201 and 12202.)

Mr. NEHEMKIS. So that prior to 1906, J. P. Morgan & Co. never had any leadership over Telephone financing, correct, sir, so far as your recollection goes?

Mr. WHITNEY. It is not a question of recollection at all. My first answer, I should think, would cover the second.

THE 1906 FINANCING UNDER THE LEADERSHIP OF J. P. MORGAN & CO.

Mr. NEHEMKIS. Now the first piece of A. T. & T. financing headed by J. P. Morgan & Co. was in 1906, with the issue of \$150,000,000 of 4 percent convertible bonds due March 1, 1936, is that correct, Mr. Whitney?

Mr. WHITNEY. I shouldn't think so. And Mr. Henderson, if I may, I think there were two, inadvertently perhaps, implications. In the 1906 financing we didn't lead. As the records will show, that was a joint arrangement, jointly signed with the Telephone Co., by Kidder, Peabody; Baring Bros. in London; ourselves, and Kuhn, Loeb, and J. S. Morgan in London. We didn't lead in that business.

On the other point, just as a matter of comment, you said in your statement today that during this entire period the bankers didn't consider any alternative method of financing. I assume, of course, you had reference to bond financing, because it is a well-known fact that during that period they sold vast amounts of common stock, generally to their own stockholders and a certain amount of convertible bonds during that period, all to their own stockholders, without any underwriting, and I think it is a fact that they increased the capital stock during this period something like 10 times without any relation to the bankers. It seemed to me that that statement of yours implied that the only financing, or all the financing they did, was through bankers.

Mr. NEHEMKIS. But your qualification, Mr. Whitney, would only hold good with reference to those phases of financing other than direct negotiations with the banking group.

Mr. WHITNEY. I think you will find if you check the records (as a matter of fact I have here records that I think are substantially accurate) that substantially more than half the total additional financing done from 1906 down to the present day was done through stock offered to their own stockholders, always at par and without underwriting of any kind.

Mr. NEHEMKIS. But other than that you have no objection to the statement.

Mr. WHITNEY. I have no objection to the statement whatever, but I thought it would be simpler to get that cleared up.

Mr. NEHEMKIS. Mr. Whitney, perhaps it will be more convenient for both of us if you follow these sheets, a carbon copy of which you probably have available, as we go through them.

Will you indicate, Mr. Whitney, how this first group of original contractors came to be brought together—and by the way, the term "original contractors" is correct, is it not, as a designation for the group?

Mr. WHITNEY. I see that is what it says here, yes.

Of course, Mr. Chairman, I can't speak of my own personal knowledge and I am a little loath to testify on matters with which I have no knowledge, but I have, of course, investigated this matter and I can only tell you what my understanding is as to how this happened.

My understanding is this, that prior to this period of time, the A. T. & T. and certain of its subsidiaries had financed themselves as they went along, more or less what you might call "hand-to-mouth financing." As you read back over the history of the business, while the growth up to that time had been great, the following period after 1916 marked the tremendously accelerated growth, and it has always been my understanding that at the time this business came to us, J. P. Morgan & Co.—Mr. Fish, who was then president, became concerned as to how he was going to handle the financial part of it. There has been some testimony given here today, which as I understand it was restricted entirely to the financial side of it. I don't need to tell you of the work and the development of the Telephone business, which has contributed so much to all of us.

My understanding is that Mr. Fish approached Kidder, Peabody. Mr. Winsor and he had a program, a big program, I don't know the details of it. The program was so large that he felt the necessity of getting himself set for it, and the times, if you remember—and some of us remember—weren't so good in 1906, and he felt he had better make arrangements to get himself financed over a period of time.

As a result of that, Mr. Winsor approached Kuhn, Loeb & Co. and ourselves to see whether we would be prepared to join with them, with him and Baring Bros., who were very closely associated with Kidder, in this very large transaction. Mr. Miller said, I think, that it was one of the largest. I haven't looked that up, but it was a very large piece of financing for then, or for now.

The steel business, Mr. Henderson, I think was a little different, because most of the bonds there were sold or delivered to the former owners rather than offered publicly.

Mr. HENDERSON. Were there any rail issues in this period equivalent to that?

Mr. WHITNEY. I can't speak with any degree of accuracy, but it is my impression that there hadn't been anything of this size except one, perhaps, the only one I can think of off the bat—the Burlington joint 4's which was a result of a deposit of stock of Northern Pacific and Great Northern and was issued to such holders. It was not what you might call a public issue. Aside from that I don't of my own knowledge think of anything that was as large a financial transaction as this.

That, Mr. Nehemkis, is my understanding of how this came about. The business was not originally brought to us, but it came through Mr. Fish who was a lawyer in Boston, not a Telephone man primarily, who went in to Mr. Winsor to get his advice as to how to finance, and it being the size it was, with the picture they had in their mind at that time of the possible growth of the Telephone Company, he had felt that he ought to enlist the aid of others than merely New England bankers.

COMPETITION AND COMPETITIVE BIDDING

Mr. WHITNEY. I have listened this morning with great interest to the words "competition" and "competitive bidding." It seemed to me

that the previous witness established that there was a lot of competition, and this is one of those times, I am afraid, Senator, when you are going to find that I raise the question of terms quite a good deal. I have listened the last few days to a good deal of testimony and particularly to presentation, and I think terms have shifted in the last 30 years quite a good deal. Competitive bidding, as we understand it today, means public tender, which today is done in the case of municipalities and certain railroad equipments. Competition is quite a different thing. There has never been, except for municipalities, any requirement of what today is known as competitive bidding. I think from what I know of the history that there has been a lot of competition in the Telephone business, but competition doesn't necessarily mean that the company should just offer its bonds for public tender as we mean it today. It means that certain bankers would like the chance to do the dealing with the company rather than the people that the company elected to deal with.

The CHAIRMAN. In other words, you understand this to be competition among certain groups to be exclusive agents?

Mr. WHITNEY. That is it; or not to be the exclusive agent, but to be the person chosen by the company, and again I try to shift the emphasis, because it seems to me that extraordinarily little has been said up to date in the presentation about where the issuer comes into this. My recollection and all the history that has been brought down through the years is to the effect that the company sought Mr. Winsor, and Mr. Winsor, faced with an undertaking which he believed was beyond his firm alone, or New England, to handle, approached Kuhn, Loeb and ourselves as other people who were supposedly skilled in this business. It happens, if I may identify myself—it doesn't amount to anything—that I was a clerk in Kidder, Peabody in 1907 and 1908, and one of the earliest recollections I have in my business life is of this transaction, so my historical recollection stems not only from what I knew then in office gossip—I was a very lowly clerk—but also from what I have learned since I moved and went into the employ of J. P. Morgan & Co.

Mr. NEHEMKIS. Mr. Whitney, did all of the firms in the group of that February 13, 1906, issue enter into discussion with the company equally, or were the discussions restricted to one or more of the participants? Do you recall?

Mr. WHITNEY. Of course, I don't recall, but as I—

Mr. NEHEMKIS (interposing). Excuse me. How are you going to establish an answer to the question if you don't recall?

Mr. WHITNEY. I was just about to try to give you my best information. My historical studies, if you wish, lead me to believe that the direct negotiations were conducted with the company by Kidder, Peabody; Kuhn, Loeb; Baring Bros.; and J. P. Morgan & Co.

Mr. NEHEMKIS. Mr. Whitehead, will you step forward for a moment, please?

I show you a memorandum which purports to come from the files of Kuhn, Loeb & Co. Will you examine this, Mr. Whitehead, and tell me whether this was a memorandum you obtained from those files?

The CHAIRMAN. Has Mr. Whitehead been sworn?

Mr. NEHEMKIS. Yes; he has.

Mr. WHITEHEAD. That is correct.

Mr. NEHEMKIS. This is a copy of a telegram sent to Kidder, Peabody & Co., for Mr. Winsor, dated February 8, 1906, signed by Jacob Schiff. I offer it in evidence.

The CHAIRMAN. The telegram may be admitted.

(The telegram referred to was marked "Exhibit No. 1662" and is included in the appendix on p. 12206.)

Mr. NEHEMKIS (reading from "Exhibit No. 1662"):

It was not proper to ask us to sign an agreement involving such large responsibility without giving us an opportunity to carefully consider its contents. I signed it in the expectation that it had received your own and the Messrs. Morgans careful scrutiny. I now find that the following rectifications need be made before the agreement is delivered by you—

And then follow suggestions and changes in the agreement.

The CHAIRMAN. On whose behalf was Mr. Schiff acting at the time?

Mr. NEHEMKIS. If I recall correctly—this is before my time——

The CHAIRMAN. Then you don't recall either.

Mr. WHITNEY. I can identify Mr. Schiff. He was senior partner of Kuhn, Loeb.

The CHAIRMAN. At the time of this telegram?

Mr. WHITNEY. Yes, sir.

Mr. NEHEMKIS. Each of these original contractors, Mr. Whitney, had a several liability of a quarter and a liability for a total not exceeding one-third of the aggregate obligation.

Mr. WHITNEY. That is what I have understood from this paper.

Mr. NEHEMKIS. You have referred just now to "this paper" and I believe earlier you referred to "this paper." So that the record may be clear, would you state now what paper you are referring to?

Mr. WHITNEY. It is one of the papers just introduced as evidence which is headed "February 13, 1906, American Telephone and Telegraph Co. Convertible 4 percent due 3/1/36" ("Exhibit No. 1661-2"); and down in the one, two, three——

Mr. NEHEMKIS. That is all, just so the record shows what you are referring to, and that was the exhibit prepared by you in response to our request?

Mr. WHITNEY. Yes.

PERCENTAGE INTERESTS OF ORIGINAL CONTRACTORS IN 1906 AND SUBSEQUENT SYNDICATES

Mr. NEHEMKIS. In addition to the original contractors, Mr. Whitney, J. S. Morgan & Co., and the First National Bank of New York were ceded interests in the syndicate?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. Upon final settlement the interests in the syndicate were—will you follow me on your sheet (referring to "Exhibit No. 1661-2")—Kidder, Peabody & Co., 25 percent.

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. J. P. Morgan & Co., 18¾ percent.

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. Baring Brothers & Co., Ltd., 22½ percent.

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. Kuhn, Loeb & Co., 22½ percent.

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. J. S. Morgan & Co., 5 percent.

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. First National Bank, 6¼ percent.

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. The Telephone Company bought from the company an issue of \$25,000,000 of 3-year 5-percent notes——

Mr. WHITNEY. Well, you missed one. The second is Pacific Tel. handled by the Bank of California.

Mr. NEHEMKIS. And then after that we had the \$25,000,000 issue.

Mr. WHITNEY. The record will be clear that the second issue was not handled by that group.

Mr. NEHEMKIS. Did not the Telephone group purchase from the company an issue of \$25,000,000 of 3-year 5-percent notes?

Mr. WHITNEY. Yes; so the record shows.

Mr. NEHEMKIS. And the participants in the syndicate were Kidder, Peabody & Co., Baring Brothers & Co., Ltd., with a 47½ percent interest.

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. And Kuhn, Loeb & Co. with a 22½ percent interest.

Mr. WHITNEY. Right.

Mr. NEHEMKIS. J. S. Morgan & Co., 5-percent interest.

Mr. WHITNEY. Right.

Mr. NEHEMKIS. J. P. Morgan & Co., 25-percent interest.

Mr. WHITNEY. Right.

Mr. NEHEMKIS. Were not Kidder, Peabody, and Baring Bros. considered more or less by the other members of the group as a unit in this transaction?

Mr. WHITNEY. Oh, I don't think so at all. Baring Bros. was one of the leading private banking firms in London and they were lumped this way; Kidder, Peabody signed for themselves and for Messrs. Baring Bros. & Co., Limited, for whom they had power of attorney in this country. There was no possible thought that it was the same.

Mr. NEHEMKIS. Now the First National Bank did not participate in this issue, did it?

Mr. WHITNEY. No.

Mr. NEHEMKIS. Were there any other bond issues of A. T. & T., that is to say the parent company, from 1907 through 1913?

Mr. WHITNEY. Why this record shows, Mr. Nehemkis, that in January 25, 1911, the American Tel. & Tel. Co. sold some 5½-percent notes to the extent of \$8,000,000.

Mr. NEHEMKIS. I asked, if I recall my question, correctly, any bonds.

Mr. WHITNEY. Excuse me, I missed it. No.

Mr. NEHEMKIS. Your answer is "No," then, to the question?

Mr. WHITNEY. There were no long-term debts.

Mr. NEHEMKIS. Continuing on those sheets to which we have been referring, Mr. Whitney, on January 8, 1913, did the Telephone group underwrite an issue of \$67,000,000 of convertible bonds which were offered for subscription to the stockholders?

Mr. WHITNEY. What date is that?

Mr. NEHEMKIS. January 8, 1913.

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. As I understand, \$1,556,000 that were not subscribed for by the stockholders were taken by the group?

Mr. WHITNEY. That is what the record shows.

Mr. NEHEMKIS. And the participants of the group in that underwriting were Kidder, Peabody & Co., Baring Bros. & Co., Limited, of London with a 35-percent interest, Kuhn, Loeb with 15-percent interest, Morgan Grenfell & Co. with 5-percent interest—by the way, does Morgan Grenfell at this time become the new organization formerly known as J. S. Morgan?

Mr. WHITNEY. No. There was a predecessor firm, originally Peabody & Co., and back in 1850 or thereabouts it became J. S. Morgan, and about 19—I don't know, about 1908 it became Morgan Grenfell.

Mr. NEHEMKIS. Morgan Grenfell's interest was 5 percent. Here the First National Bank of New York has an interest of 10 percent, the National City Co. has an interest of 10 percent, J. P. Morgan & Co. has an interest of 25 percent.

Mr. Whitney, I show you a photostat copy of a letter signed by J. P. Morgan & Co. addressed to the First National Bank of New York, dated January 8, 1913. Will you look at this and tell me, if you can, whether this is a true and correct copy of an original in your files?

Mr. WHITNEY. Yes, sir.

Mr. NEHEMKIS. The letter identified by the witness is offered.

(The letter referred to was marked "Exhibit No. 1663" and is included in the appendix on p. 12207.)

(Mr. Henderson assumed the Chair.)

APPEARANCE IN GROUP OF FIRST NATIONAL BANK AND NATIONAL CITY COMPANY, 1913

Mr. NEHEMKIS. It would seem that in comparison with the participants of the first two issues, First National Bank and National City Co. appear for the first time as constituent members of the group with interests of 10 percent each?

Mr. WHITNEY. The first part of that question was fine, except that it isn't the first time that the First National appeared. It is the first time the National City did. You said something about "as constituent members." What does that mean?

Mr. NEHEMKIS. Let's take one of your problems up at a time. When was the first time that the First National Bank appeared?

Mr. WHITNEY. In 1906, \$100,000,000 convertible issue.

Mr. NEHEMKIS. The first time that First National Bank appeared did it not obtain its 6¼-percent interest from the J. P. Morgan & Co. interest?

Mr. WHITNEY. I don't know, I should think not.

Mr. NEHEMKIS. In other words, the statement reads here [reading from "Exhibit No. 1661-2"]:

By agreement between J. P. Morgan & Co. and the First National Bank dated March 6, 1907, the First National Bank accepted a participation.

I assume from that they must have gotten it from J. P. Morgan & Co.?

Mr. WHITNEY. That, I think, is a fair assumption, but it doesn't say so.

Mr. NEHEMKIS. Do you have any doubts on that?

Mr. WHITNEY. No.

Mr. NEHEMKIS. My question, Mr. Whitney, was, in the issue that we are now discussing, whether or not the First National appeared in this last group as a member of the group for the first time on its own feet, so to speak. Did it get its participation in that group from J. P. Morgan or from the company or by some other method?

Mr. WHITNEY. Well, I should think that it would be a fair assumption that when it came to this underwriting of \$67,000,000 convertibles, 1913, the people who had been interested in this financing up to that time made a realignment of percentages and that the task that was confronting them of assisting the Telephone Company in its financial problem was growing all the time, and I should think it is a fair assumption to say that they sat down and decided they needed to widen the group.

Mr. NEHEMKIS. So that you are now correcting your earlier answer?

Mr. WHITNEY. No; I am not correcting that answer at this time.

Mr. NEHEMKIS. It was about this time that the security affiliate of the First National Bank of New York and the National City Bank was organized, wasn't it?

Mr. WHITNEY. I don't know.

Mr. NEHEMKIS. The total participation here of 20 percent was made up 12½-percent participation out of the New England group and 7½ percent from Kuhn, Loeb?

Mr. WHITNEY. I don't follow your mathematics at all.

Mr. NEHEMKIS. I was just comparing this group that we have been discussing with the previous group, and I was wondering how the 12½-percent participation for the New England group was made up?

Mr. WHITNEY. Mr. Nehemkis, in my answer a minute ago I said I thought the assumption was that the firms that were interested in this business previously decided that there would be a realignment, and I don't believe that there is any subtraction or addition involved in it; they decided that they were going to broaden the group and include the First and National City Co., and these figures resulted from that decision. I don't question your mathematics.

Mr. NEHEMKIS. I think we can move on. At this time was there not already in existence the agreement between J. P. Morgan & Co., National City Bank, and the First National Bank of New York whereby each had an option on a one-quarter interest in any business originated by the other?

Mr. WHITNEY. There was no such agreement at any time. There was an understanding (and had been for some years prior to that) as to these securities transactions, in order to diversify the risk, which is the essence of the banking business, that any one of the three should offer the other a participation which that other had a complete right to refuse or accept at its own option. I only make that explanation because there was never any option involved, and it wasn't an agreement; it was an understanding. Many times it was not accepted. It was in no sense an option.

Mr. NEHEMKIS. Was the understanding reached about 1907?

Mr. WHITNEY. I think—again I am speaking more or less from what I have heard, of course; I have no knowledge—that it started in 1907 or 1908. I should think it was 1908, after the panic.

Mr. NEHEMKIS. Probably grew out of the panic?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. Now, how did it happen that the percentages in this business which we have been discussing did not conform to the understanding concerning which you have just testified?

Mr. WHITNEY. Well, because they were original members of this group.

Mr. NEHEMKIS. In other words, the understanding was not an overall understanding?

Mr. WHITNEY. Oh, certainly not.

Mr. NEHEMKIS. Now, I note that all of the First National and National City interests come out of the Kuhn, Loeb-Kidder, Peabody-Baring Bros.' interest. Is there any particular reason for that, Mr. Whitney?

Mr. WHITNEY. I have not the remotest idea. I was not present.

Mr. NEHEMKIS. You can't attach any significance and you have never heard any gossip about that?

Mr. WHITNEY. Never a word, never saw these things, until you asked me.

FURTHER ISSUES PURCHASED BY THE GROUP, 1913-16

Mr. NEHEMKIS. Now, on October 7, 1913, did not the Telephone group underwrite the distribution of \$10,000,000, 5½ percent, 6-month discount notes of companies associated with the A. T. & T. system?

Mr. WHITNEY. Yes; so the record shows.

Mr. NEHEMKIS. And on March 31, 1914, did not the group underwrite \$30,000,000, of 5 percent, 2-year notes of associated companies?

Mr. WHITNEY. Yes, sir.

Mr. NEHEMKIS. Now, if you will just hold those two pages together, the percentage—

Mr. WHITNEY (interposing). The reason I hesitated is that there was an intermediate transaction done at practically the same time, which I was looking at, with the Southern Bell.

Mr. NEHEMKIS. Now, you keep those two groups in mind and follow me on these percentage distributions. On the March 31, 1914, issue, Kidder, Peabody, and Baring Bros. had a 35-percent interest, and in the October 7, 1913, offering they had a 35-percent interest. Kuhn, Loeb & Co. had a 15-percent offering in the first and a 15-percent offering in the second. Morgan Grenfell & Co. had a 5-percent participation in the first offering and 5 percent in the second. Lee, Higginson was not included in the first and had a 3¾ interest in the October 7, 1913, participation. The First National Bank of New York had 11¼-percent interest in the March 31, 1914, offering, and 10⅝ percent in the October 7, 1913, offering. National City had 11¼ in the March 31 offering, and 10⅝ in the October 7. J. P. Morgan had 22½ percent in the 1914 offering and 20⅝ percent in the October 7, 1913, offering. Is that correct?

Mr. WHITNEY. Those figures are correct; yes.

Mr. NEHEMKIS. Now, in the issue of October 7, 1913, it appears that Lee, Higginson's name is shown for the first time. Is that correct?

Mr. WHITNEY. You mean in these lists. That is the fact.

Mr. NEHEMKIS. Its interest of 3¾, however, was made up apparently from the Morgan interest: that is, the First National, Na-

tional City Co., and J. P. Morgan & Co. interest. Can you explain that?

Mr. WHITNEY. I suppose that it was considered in the interest of the business to have Lee, Higginson included. And I should further assume that the others didn't feel that way, so it came out of our interest.

Mr. NEHEMKIS. So that in this particular situation, it would seem that the interests of First National, National City Co., and J. P. Morgan & Co. were in conformity to the understanding between these three banks as to the division of business, the understanding that we have referred to?

Mr. WHITNEY. You remember you corrected me a little while ago when I talked about bonds instead of notes.

Mr. NEHEMKIS. Yes.

Mr. WHITNEY. And if I may refer you to your own comment, you are talking about short-time bank paper in those instances, which did not involve any substantial commitment and undoubtedly was taken for their own investment.

Mr. NEHEMKIS. But, Mr. Whitney, my question——

Mr. WHITNEY. You said——

Mr. NEHEMKIS. Let me state my question. My question to you, sir, was, Was not this distribution of percentage interests in conformity with the understanding—I didn't say anything about notes as distinguished from bonds.

Mr. WHITNEY. No; I did. The answer to your question is that they have a quarter interest, or half of what we had, if you can look at it collectively. I don't think it is important, but I think it has been stated that they were original participants. But these were transactions in bank paper, as I said, and the fact is true that they had each a half of what we had.

Mr. NEHEMKIS. Now, on January 25, 1911, again on January 10, 1913, did not the firm of J. P. Morgan & Co. place short-term notes for the A. T. & T. and associated companies with a group of banks?

Mr. WHITNEY. January 11—will you excuse me?

Mr. NEHEMKIS. I think I said January 25, 1911, and January 10, 1913.

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. Now, the participants in the first of those placements, the \$8,000,000 of 6-month notes, were Guaranty Trust Co., with a 25-percent interest; Bankers Trust Co., with a 12½-percent interest; First National Bank of New York, 12½-percent interest; National Bank of Commerce, with a 12½-percent interest; National City Bank, 12½; Mercantile Trust Co., with 12½; Astor Trust Co., 3¾ interest; United States Mortgage & Trust Co., 3⅓; Liberty National Bank, 3⅓; Chemical National, 2½; is that correct?

Mr. WHITNEY. The paper shows; yes.

Mr. NEHEMKIS. Now, the participants in the \$7,500,000 of 3-month notes taken on January 10, 1913, were: National Bank of Commerce, 26⅔ percent; Guaranty Trust Co., 26⅔ percent; Bankers Trust Co., 20 percent; First National Bank of New York, 16⅔ percent; Liberty National Bank, 3⅓ percent; J. P. Morgan & Co., 6⅔ percent?

Mr. WHITNEY. That is correct.

Mr. NEHEMKIS. Now, on January 5, 1916, did not the group purchase from the American Telephone & Telegraph Co. an issue of \$50,000,000 2-year, 4½-percent notes, dated February 1, 1916?

Mr. WHITNEY. Yes, sir.

Mr. NEHEMKIS. And were not the participants of this group Kidder, Peabody, Baring Bros. & Co. of London, sharing between them a 33¼-percent interest; Kuhn, Loeb & Co. with a 14¼-percent interest; Lee, Higginson & Co., 5-percent interest; Morgan Grenfell & Co. with a 4¾-percent interest; First National Bank of New York, 10⅛-percent interest; National City Co., 10⅛ percent interest; and J. P. Morgan & Co. with 21⅜-percent interest?

Mr. WHITNEY. Yes, sir.

Mr. NEHEMKIS. I note with this issue Lee, Higginson & Co. apparently has become a member of the group. Would that assumption follow?

Mr. WHITNEY. They are here listed. They certainly had a 5-percent interest.

Mr. NEHEMKIS. Now, to make up the Lee, Higginson interest of 5 percent, is it not correct that each member of the group gave up 5 percent of his participation?

Mr. WHITNEY. Five percent of what participation?

Mr. NEHEMKIS. Of each individual member's participation.

Mr. WHITNEY. Well I don't doubt it, of course. Our records don't say anything about it.

Mr. NEHEMKIS. Your records don't disclose anything?

Mr. WHITNEY. I don't know what percentage you are talking about.

Mr. NEHEMKIS. I am now asking you whether, in order to make up the Lee, Higginson interest of 5 percent, did not each member of the group give up a certain amount of his percentage in the previous group in order to get this 5-percent interest? In other words, maybe this will help you: The participation of the New England group—that is to say, Kidder, Peabody, and Baring Bros.—was reduced from 35 percent in the previous issue to 33¼ percent in this issue. The participation of Kuhn, Loeb was reduced from 15 percent in the previous issue to 14¼ percent in this issue. The participation of Morgan Grenfell was reduced from 5 percent to 4¾ percent. The participation of the Morgan group was reduced from 45 percent to 42¾ percent. Do you follow my thought, Mr. Whitney?

Mr. WHITNEY. You clarified my thinking when you said it was a percentage of another piece of business. Obviously, if somebody has introduced the 5 percent, the total being 100, it would have to come out of somebody.

Mr. NEHEMKIS. Now, Mr. Whitehead, will you step forward for a moment, please? I show you a letter from J. P. Morgan & Co. to Messrs. Kuhn, Loeb & Co., dated January 6, 1916, marked "confidential." Will you examine this photostat and tell me if you obtained an original thereof from the files of Kuhn, Loeb & Co.?

Mr. WHITEHEAD. That is correct.

Mr. NEHEMKIS. The letter identified by the witness is offered.

The CHAIRMAN. It may be received.

(The letter referred to was marked "Exhibit No. 1664" and is included in the appendix on p. 12207.)

Mr. NEHEMKIS. On December 1, 1916, did not the group purchase from the A. T. & T. Co. an issue of \$80,000,000 of 30-year, 5-percent collateral trust bonds, dated December 1, 1916?

Mr. WHITNEY. That is correct. Yes, sir.

Mr. NEHEMKIS. And if you will follow me on your sheet; were not the participants and their respective percentage interests in the group, as follows:¹

Kidder, Peabody & Co., Baring Bros. & Co., Ltd., of London, 31½; Kuhn, Loeb & Co., 13½; Morgan Grenfell & Co., 4½; First National Bank of New York, 10⅛; National City company, 10⅛; J. P. Morgan, 20¼; Lee, Higginson, 5; Harris, Forbes, 5?

Mr. WHITNEY. That is correct.

Mr. NEHEMKIS. Now, with this issue, I note, Mr. Whitney, that Harris, Forbes & Co., and Lee, Higginson apparently became permanent members of the group.

Mr. WHITNEY. What? Oh, yes; at the direction and suggestion of Mr. Vail.

Mr. NEHEMKIS. I was coming to that in a moment. Now, I show you, Mr. Whitney, a letter from your firm to Messrs. Kidder, Peabody & Co., dated November 27, 1916. Will you tell me if this is a true and correct copy of an original in your custody and possession?

Mr. WHITNEY. Yes, sir.

Mr. NEHEMKIS. It is offered in evidence.

The CHAIRMAN. The letter may be received.

(The letter referred to was marked "Exhibit No. 1665" and is included in the appendix on p. 12208.)

Mr. NEHEMKIS. Now, from the letter which you have just identified, Mr. Whitney, it appears that the inclusion of Messrs. Lee, Higginson & Co., and Messrs. Harris, Forbes & Co., in the purchase on original terms was at the request of Mr. Vail, the president of the company?

Mr. WHITNEY. The letter says so.

Mr. NEHEMKIS. Now, Lee, Higginson had not, however, been a member of the previous group?

Mr. WHITNEY. They had been, as I have already testified, a member of certain groups.

Mr. NEHEMKIS. Yes. Now, the members of the group other than Lee, Higginson & Co., gave up proportionately 5 percent each from their original participation to make the Harris, Forbes interest?

Mr. WHITNEY. I will accept that, I suppose, I have not figured it out.

Mr. NEHEMKIS. Now, had not Lee, Higginson and Harris, Forbes been leaders in financing some of the subsidiaries prior to this time?

Mr. WHITNEY. They had been. I don't know about leaders, but I am sure they had been—Mr. Chairman—

Mr. NEHEMKIS. Just a minute, Mr. Whitney. I want to get your statement. Was it? Do you know?

Mr. WHITNEY. I think so; yes.

Mr. NEHEMKIS. Well, all right. Did you want to make a statement, Mr. Whitney?

¹ See "Exhibit No. 1661-2," appendix, p. 12202.

Mr. WHITNEY. I merely want to comment there, Mr. Chairman, if I may. I think that there is just one comment that I would like to make in order that the committee may follow the trend, perhaps, of this testimony a little bit better. It seems to me interesting that during these last 3 days that I have been listening here with great interest, there never has been any attempt made by anybody to tell what the banking business, the investment banking business, has been.

Of course, as you know, I have been out of it for 5½ years. I was in it for 25. And it seems to me that all these "groups" can be tremendously simplified in your, the committee's thinking, if it is accepted, as I firmly believe it to be a fact, that the investment banking business is a profession. It isn't a fly-by-night thing. It requires great technical knowledge, great responsibility, financial strength, and all the other qualities that any other profession does. At the inception of a piece of business, the basis of it is that certain people, individuals who are charged with the responsibility of running large corporations, who are not in their line of business keeping up in detail with current financial events, seek some group of people whom they know to be expert in those things, from whom they ask the advice as to how they should conduct their operations. My lawyer friends sometimes dislike the analogy, but I always believe that it is very analogous to the relation the client has with his lawyer.

Mr. NEHEMKIS. You say your lawyers don't like that analogy? [Laughter.]

Mr. WHITNEY. Not much. I think it is true, and I was in the business for a long time, and I have watched the business as it is today, and I think that it is essential, in the study that is going on, to keep in mind the fact that it is a serious, highly technical, highly specialized responsibility. It employs a large number of people; it requires great experience and absolute integrity if it is going to go on and it is as competitive as the dickens. If a fellow makes a mistake, if a house makes a mistake, he may make one, and so may a lawyer, but if he makes a succession of them, his bonds are not going to sell well and his position changes. It has happened in my experience, and I could name half a dozen instances. Investment banking is divided, roughly, into three parts, and every one of them is important.

The first part is a knowledge, an intimate knowledge, of the affairs, and aims, and programs of the different borrowing corporations. That requires highly technical skill, or a certain acquaintance, anyway, with the program that people like Mr. Fish, in this instance, and then Mr. Vail, had in mind.

It requires enough knowledge to decide what kind of security is not only to the best interest of the corporation, but to the best interest of the public to whom those securities will be distributed.

The second thing is the technical knowledge of the Street and of the kind of security that is apt to be saleable, because if you don't sell the right kind, the business is going to be a failure, and that hurts the credit of the borrower. The final and last thing is the factor in the business that we have heard a good deal about in the

last few days, the sheerly mechanical part of distribution. There are various things in that, as you have heard—underwriting strength, financial strength, distribution ability, and the question of where you can get that distribution, and the best way you can get it.

Now, obviously, the first thing you have to think about is who is going to give the best service, and this story here, in which we have gone a little way, is typical of an ordinary financial program that thousands of corporations have done. The Telephone Co. today is a wonderful company, and its bonds command the highest rating. It is very easy to forget that it was a terrible headache at one time. Only as lately as 1919 there was an issue of bonds that was a complete flop, and the improvement that has happened in the last 20 years, roughly speaking, has been owing largely to Mr. Gifford, a name not yet mentioned.

Now, these two men, these two firms that came in here now, were at that time, as I can say of my own knowledge, the two leading bond distributors in the country. The bond business has completely changed since the war. Mr. Nehemkis paid us the compliment of suggesting that we created the first modern syndicate. Prior to that time the practice had been to follow the general theory of English financing, where you had a list of underwriters and a few brokers or many brokers, who found customers for a relatively small commission.

In other words, the two activities of underwriting and selling were completely divided. That was true until the time of the war. In 1915, September of 1915, when the first big foreign loan came, the head of our bond department devised the scheme of a modern syndicate. At that time there were only these two outstanding distributors of bonds, as contrasted from underwriters.

Mr. HENDERSON. Which two?

Mr. WHITNEY. Lee, Higginson and Harris.

Mr. HENDERSON. Did I understand you to say that the arrangement for financing the A. T. & T. is typical of thousands of cases?

Mr. WHITNEY. I think so. I think it is typical of a case where the company has a job to do. They go to the people from time to time that they trust, and as long as those people have a continuing relationship with them and do good work, it is all right. But if their advice and their technical performance is not all right, it will be changed.

Mr. HENDERSON. In the latter part of your statement, then, I think you are agreeing with what Mr. Mitchell said yesterday. He said about the same thing, didn't he?

Mr. WHITNEY. Did he? I have not read the testimony.

The CHAIRMAN. Well, may I say, Mr. Whitney, that there seems to be a disposition upon the part of many persons who are called before this committee to assume that the mere fact that they have been called implies a desire or an intent or a suspicion upon the part of the committee, or somebody associated with the committee, to develop some sentiment of criticism, ethical criticism, perhaps, of the activities of those who are called.

Now, that is the furthest thing from the thought of anybody in this committee. I am frank to say I have never yet found any member of the committee express to me, or any person associated with

the committee, a desire to hold any person or any institution, as such, up to public obloquy. That is out. We are merely studying the facts as they are.

And may I say to you what has transpired here in the last few days illustrates that principle which I have been preaching for many years. Here we have the gradual development of the financing of large industrial institutions. In the beginning, this financing was local. By and by, it becomes specialized. As an institution like the telephone business suddenly branches out into a vastly greater aspect than it ever had before, it turns from specialized financing in New England to national financing, and your group comes into the picture with that arrangement which has been described here by the previous witness and by yourself.

Now, the mere fact that we are discussing this does not necessarily imply any criticism of it, but it does show that big business, industrial business, has brought about a concentration of financing, and that in turn has led to the building up of government. And the three things seem to be pretty well tied together as part of the growth of this country, and we are merely trying to analyze them. I do hope that so far as your concern or associates and anybody else who may be called in the future, you will get out of your head, if you have it there, that we are really trying to make any personal capital out of this.

Mr. WHITNEY. Well, Senator, that was the very last thought in my mind. As I have said, I have been out of this business 5½ years. The only reason why I said what I did, was not that I thought there was any criticism or insinuation of anything that was not completely all right, but it seemed to me that if I were to be asked to explain this development of the Telephone financing, that it was impossible to do so unless I could establish what we were trying to do and why the steps were taken.

It is not my job—and I don't think he needs any defense—to defend the investment banker, and I am not going to do that. The commercial bankers have enough to do for themselves. But I think that we must understand the function that I consider the people like this group, if you want, served, and we must remember that the initiative of it always came from the issuing company. It is not my business to comment on what went before, but if that is correct, you have these relations and you require intimate knowledge, you require continuing acquaintance with affairs, if you are going to do a good job for the company and the investor. They are both in it, and they are in it importantly. Their interests are not antagonistic, but they are there, and there is nothing further, I can promise you, from my thoughts than that you were critical of these people, or anything else. And I certainly am not going to defend them. But I got the feeling after 3 days of testimony that the impression was being created that this business was just dividing a lot of profits, where, as a matter of fact, it is a terribly serious, highly specialized profession. Perhaps my historical connection with it made me want to say that.

The CHAIRMAN. We are not going to assume you were dividing up a lot of losses. (Laughter.)

Mr. WHITNEY. Well, there are some of them in here.

Mr. NEHEMKIS. I should like to offer in evidence a table predicated upon data supplied to us by J. P. Morgan & Co., identified by

the witness. The table is entitled, "Participations on 'original terms' in Telephone financing headed by J. P. Morgan & Co.—1906–1919." It is a study of percentage allocations and their significance.

I should also like to offer, Mr. Chairman, if you please, a summary statement of participations by J. P. Morgan & Co. in issues of associated companies, headed by others. This table, likewise, is predicated upon information and data furnished us by J. P. Morgan & Co., and identified by the witness.

The two documents are offered.

Mr. WHITNEY. What are those? I haven't—

Mr. NEHEMKIS. I have offered an abstract of material in those papers.

Mr. WHITNEY. I have not identified those.

Mr. NEHEMKIS. I have not said that you did. I said you identified that material on which this was based.

The CHAIRMAN. Without objection, the material may be admitted.

(The documents referred to were marked "Exhibits Nos. 1666 and 1667," and are included in the appendix on pp. 12208 and 12209.)

Mr. NEHEMKIS. Mr. Chairman, I should like at this time your leave to dismiss Mr. Whitney and call another witness whose time on the stand will be rather brief, and then I propose to recall Mr. Whitney in the afternoon.

The CHAIRMAN. It is now 12:25.

Mr. NEHEMKIS. I think I can finish with this witness in about 10 minutes.

The CHAIRMAN. The Chair was thinking of recessing for only an hour this noon.

Mr. NEHEMKIS. Whatever your pleasure is, sir.

The CHAIRMAN. The committee will stand in recess until 1:30.

(Whereupon, at 12:25 p. m., the committee recessed until 1:30 p. m. of the same day.)

AFTERNOON SESSION

The committee resumed at 1:40 p. m., on the expiration of the recess.

The CHAIRMAN. The committee will please come to order. Are you ready to proceed?

Mr. NEHEMKIS. I am, sir. There is some business from this morning, Mr. Chairman, that I would like to call to your attention.

The witness, Dr. Danielian, indicated to the committee that certain exhibits had been obtained from the A. T. & T. direct, and I inadvertently omitted to give you all of the material—a letter of transmittal, with reference to those exhibits—and I now ask that this letter be offered in evidence, to become part of the record of the committee.

The CHAIRMAN. That may be received, and it will be placed in the record at the appropriate place.¹

Mr. NEHEMKIS. You will also recall, Mr. Chairman, that yesterday afternoon, I stated I would furnish you with a memorandum supplementing the table² on deposit accounts of investment banking

¹ See "Exhibit No. 1659–83," appendix, p. 12200.

² See "Exhibit No. 1651–2," Hearings, Part 22, appendix, p. 11777.

firms, which had been made available to us by J. P. Morgan & Co., describing the nature of maximum and minimum balances. I now hand you such memorandum.

The CHAIRMAN. The memorandum may be received for printing in the record.

(The memorandum referred to was marked "Exhibit No. 1668" and appears in Hearings, Part 22, appendix, p. 11827.)

Mr. NEHEMKIS. Mr. Chairman, two other matters of old business: Yesterday, in offering a telegram¹ from the files of Halsey, Stuart & Co., it appears that there were on the photostats certain pencil notations which I did not observe, and I have been requested by the chairman of Halsey, Stuart & Co. to correct a possible impression that may have been gained from the failure to have read those pencil notations on the photostat copy. I should perhaps say at this time that nothing significant as far as Halsey, Stuart & Co. was intended; it was merely offered and discussed as part of the practice involved. But so that the record may be complete, I request, sir, that this telegram be offered at this time, in explanation of those penciled notations on the exhibit to which I did not call your attention.

The CHAIRMAN. The telegram is from——?

Mr. NEHEMKIS. The telegram is addressed to H. L. Stuart, this room, by R. S. Peterson. I believe that Mr. R. S. Peterson is associated with Halsey, Stuart in the Chicago office.

The CHAIRMAN. The telegram may be received and will be printed in the record.

(The telegram referred to was marked "Exhibit No. 1669" and is included in the appendix on p. 12210.)

Mr. NEHEMKIS. You will also recall, Mr. Chairman, that on Tuesday afternoon, I had occasion to ask Mr. Jesup, one of the witnesses, whether he had had any discussions with a partner or partners of J. P. Morgan & Co. concerning the future distribution of the old Morgan interest in Chicago Union Station Co. financing. Mr. Jesup indicated that he believed a partner of his may have had such conversations and I requested at the time whether he would be good enough to ascertain, and if so, furnish us with the information. Mr. Jesup has written to me as of December 13, 1939, as follows [reading Exhibit No. 1670"]:

In accordance with your request made yesterday at the hearing, I wish to advise you that my associate, Mr. N. Penrose Hallowell, remembers distinctly discussing Chicago Union Station underwriting with Mr. Harold Stanley of the firm of Morgan, Stanley & Co., and he also feels reasonably sure that the partner in J. P. Morgan & Co. with whom he discussed this business in the early part of 1935 was Mr. Arthur M. Anderson.

May I request, sir, that this be made part of the record and that the reporter be instructed to insert it at the appropriate place?

The CHAIRMAN. It is so ordered.

(The letter referred to was marked "Exhibit No. 1670" and appears in Hearings, Part 22, appendix, p. 11795.)

Mr. NEHEMKIS. And now, sir, I call Mr. John R. Chapin.

¹ See "Exhibit No. 1637," Hearings, Part 22, appendix, p. 11727.

TESTIMONY OF JOHN R. CHAPIN, KIDDER, PEABODY & CO.,
BOSTON, MASS.

The CHAIRMAN. Do you solemnly swear that the testimony you are about to give in this proceeding will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. CHAPIN. I do.

The CHAIRMAN. You may proceed, Mr. Nehemkis, with Mr. Chapin.

Mr. NEHEMKIS. Mr. Chapin, will you state your full name and address, please?

Mr. CHAPIN. John R. Chapin, Brookline, Mass.

Mr. NEHEMKIS. Mr. Chapin, were you not a partner in the old firm of Kidder, Peabody & Co.?

Mr. CHAPIN. I was.

Mr. NEHEMKIS. And certain documents which I will have occasion to ask you to identify, came from the files of the old firm of Kidder, Peabody & Co.?

Mr. CHAPIN. They did.

Mr. NEHEMKIS. You are not at present a partner in the new firm of Kidder, Peabody & Co., are you?

Mr. CHAPIN. I am not.

Mr. NEHEMKIS. And you are with the Boston office of Kidder, Peabody & Co., the new firm?

Mr. CHAPIN. I am.

Mr. NEHEMKIS. Did you know Mr. Robert Winsor, formerly head of the firm of Kidder, Peabody & Co.?

Mr. CHAPIN. I did.

Mr. NEHEMKIS. Were you intimately associated with him?

Mr. CHAPIN. Yes.

Mr. NEHEMKIS. In fact, you were his personal assistant for a long time?

Mr. CHAPIN. In the later years of his life, in Boston.

Mr. NEHEMKIS. In Boston?

Mr. CHAPIN. Yes.

Mr. NEHEMKIS. Did not Mr. Robert Winsor personally handle Telephone matters for the old firm of Kidder, Peabody?

Mr. CHAPIN. To the best of my knowledge and belief, he did.

ASSOCIATION OF KIDDER, PEABODY & CO. AND BARING BROTHERS & CO., LTD.,
IN TELEPHONE FINANCING

Mr. NEHEMKIS. Had not Kidder, Peabody and Baring Brothers been engaged in distributing Telephone securities as early as 1900?

Mr. CHAPIN. I don't recollect about Baring Brothers before 1906.

Mr. NEHEMKIS. How early had the old firm of Kidder, Peabody been engaged in distributing Telephone securities, to the best of your recollection, Mr. Chapin?

Mr. CHAPIN. I believe the first was in 1899.

Mr. NEHEMKIS. Now, in 1906, were not Kidder, Peabody & Co. and Baring Bros. joined by J. P. Morgan & Co. and Kuhn, Loeb in financing the American Telephone Co.?

Mr. CHAPIN. That is what my records—our records show

Mr. NEHEMKIS. Is that your impression at this time?

Mr. CHAPIN. That is my impression.

Mr. NEHEMKIS. Now, was not the Kidder, Peabody, Baring Bros. interest in the Telephone group originally 47½ percent?

Mr. CHAPIN. To my recollection, from the records.

Mr. NEHEMKIS. And you so testify at this time?

Mr. CHAPIN. Yes.

Mr. NEHEMKIS. Now, was not——

Mr. CHAPIN (interposing). Excuse me a minute.

Mr. NEHEMKIS. Yes, Mr. Chapin?

Mr. CHAPIN. My recollection is that there were other interests in that so-called New England group.

Mr. NEHEMKIS. That is correct, sir, and we will come to that in a moment.

Now, was not that old 47½ percent interest subsequently reduced to 31½ percent?

Mr. CHAPIN. Reduced to 35, my recollection is, and then to 31½.

Mr. NEHEMKIS. Thirty-five, and then 31½. But were not the original participants reduced from 47½ to 31½? Perhaps my next question will help clarify this for you. Do you recall the names of the original participants of the New England group?

Mr. CHAPIN. Kidder, Peabody & Co.; R. L. Day; Estabrook & Co.; and Baring Bros., to my recollection.

Mr. NEHEMKIS. The Old Colony Trust Co., do you recall that?

Mr. CHAPIN. Well, you have got it correct there; I don't——

Mr. NEHEMKIS (interposing). I am going to ask you to examine a table¹ and see whether this does not refresh your recollection. Will you glance at this, please?

Mr. CHAPIN. Yes.

Mr. NEHEMKIS. Now, will you tell me the participants of the old New England group?

Mr. CHAPIN. R. L. Day & Co., 4 percent; Estabrook & Co., 4 percent; Old Colony Trust Co., 6½ percent; Kidder, Peabody, 18 percent; Baring Bros. & Co., Limited, 15 percent.

Mr. NEHEMKIS. And if I were to add for you the total of those percentages, it would come to 47½ percent?

Mr. CHAPIN. Forty-seven and one-half percent is correct.

USE OF TERM "AMERICAN TELEPHONE PROPRIETARY INTERESTS"

Mr. NEHEMKIS. Now, I repeat to you my original question, Mr. Chapin: Did not the Kidder, Peabody, Baring Bros. interest in the telephone group consist of the 47½-percent interest?

Mr. CHAPIN. The New England group?

Mr. NEHEMKIS. Yes.

Mr. CHAPIN. That was 47½.

Mr. NEHEMKIS. Yes. And do you now recall whether or not that 47½-percent interest was subsequently reduced?

Mr. CHAPIN. It was subsequently reduced to 35 percent and again to 31½.

Mr. NEHEMKIS. Now, Mr. Chapin, will you read the title of that table?

Mr. CHAPIN. "American Telephone Proprietary Interests."

¹ See "Exhibit No. 1671," appendix, p. 12210.

Mr. NEHEMKIS. And was this table obtained from the files of the old Kidder, Peabody Co.?

Mr. CHAPIN. Yes; it was.

Mr. HENDERSON. Mr. Nehemkis, may I ask the witness, did the staff put that heading on, or was that the heading on the table when it was located?

Mr. NEHEMKIS. Well, I will have the witness answer that. Mr. Chapin, can you respond to the Commissioner's question?

Mr. CHAPIN. That was on the table when they had it photostated. They did not put it on.

Mr. HENDERSON. Was it customary to refer to these percentage participations as "proprietary interests"?

Mr. CHAPIN. Yes.

Mr. HENDERSON. Now, Mr. Chairman, I have an observation to make; I am not a witness, but in the last few days, one day which you missed, we had considerable disagreement on some of the terms that were used. As I recall, one of those was "proprietary" interest. Another one yesterday, which I think you did hear, was "reciprocal obligation," and another one that has been used is "original terms." I think it ought to be noted that the staff of the S. E. C. did not create those terms. This one, evidently, has been in existence for a long period of time.

Mr. NEHEMKIS. Since 1906, sir.

Mr. HENDERSON. And therefore we use them in our presentation; they are not words of new coinage.

Mr. MILLER. Is this recently prepared, this table?

Mr. CHAPIN. This table¹ was prepared August 16, 1920, for Mr. Winsor.

Mr. MILLER. 1920?

Mr. CHAPIN. Yes, sir.

Mr. MILLER. Was that common usage in Boston, to refer to some old accounts as "proprietary"?

Mr. CHAPIN. I know of no other account but the American Telephone account that would term it proprietary interests.

Mr. HENDERSON. What do you understand they meant by proprietary interest; a continuing interest?

Mr. CHAPIN. Why, I should say yes, it was a continuing interest in this account; yes.

Mr. NEHEMKIS. Mr. Chapin—

The CHAIRMAN (interposing). Perhaps another phrase might be used to designate it, one that was used yesterday, and I thought with a good deal of illumination—a sort of a "frozen interest."

Mr. NEHEMKIS. Well, to make you perfectly at ease, Mr. Chapin, would you feel happier if I used "proprietary interest" or "frozen interest"?

Mr. CHAPIN. I don't care.

Mr. NEHEMKIS. It doesn't matter. Thank you, sir. Will you indicate for the committee that on the left-hand side of the table before you, there appears a pencil notation, and will you indicate to the committee what that pencil notation is?

Mr. CHAPIN (reading from "Exhibit No. 1671"):

Compiled for R. W., August 16, 1920.

¹ "Exhibit No. 1671."

Mr. NEHEMKIS. And "R. W." is Robert Winsor?

Mr. CHAPIN. Robert Winsor.

Mr. NEHEMKIS. Formerly head of the house of Kidder, Peabody?

Mr. CHAPIN. Yes, sir.

Mr. NEHEMKIS. I offer in evidence, Mr. Chairman, the table identified and described by the witness.

The CHAIRMAN. The table may be received.

(The table referred to was marked "Exhibit No. 1671" and is included in the appendix on p. 12210.)

Mr. NEHEMKIS. I show you, Mr. Chapin, another photostat copy of an original document from your files. I ask you to examine this document and tell me whether or not it was furnished to us by you from the files of the old Kidder, Peabody & Co.?

Mr. CHAPIN. Yes, sir.

Mr. NEHEMKIS. Now, will you read the date of this document?

Mr. CHAPIN. September 19, 1918.

Mr. NEHEMKIS. And will you read the heading of the table?

Mr. CHAPIN (reading from "Exhibit No. 1672"):

Proprietary Interests, American Telephone & Telegraph Company.

Mr. NEHEMKIS. Now, will you read the names of the "proprietors," please?

Mr. CHAPIN (reading further):

J. P. Morgan & Co., 25 per cent; First National Bank, 10 per cent; Kuhn, Loeb & Co., 13½ per cent; National City Bank, 10 per cent; Harris, Forbes & Co., Inc., 5 per cent; Lee, Higginson & Co., 5 per cent; Kidder, Peabody & Co., 31½ per cent.

Mr. NEHEMKIS. Now, these were——

Mr. HENDERSON (interposing). Just a minute.

Mr. NEHEMKIS. Excuse me, sir.

Mr. HENDERSON. In your presentation you used the word "proprietors." That does not occur in the memorandum.

Mr. NEHEMKIS. No, sir; it does not.

Mr. HENDERSON. Is that a proper term to use, do you think?

Mr. NEHEMKIS. In my judgment, it is, sir. If the witness has any difference of opinion, I presume he is capable of so stating.

Mr. CHAPIN. Proprietary interests——

Mr. NEHEMKIS (interposing). That is what it said, and I said, will you indicate the names of the "proprietors." Those who have an interest, I assume, are proprietors. But now, am I correct, Mr. Chapin, this was the group that had the proprietary interest in the American Telephone & Telegraph Co.?

Mr. CHAPIN. The Kidder, Peabody interest was further divided.

Mr. NEHEMKIS. Now, will you indicate how the Kidder, Peabody interest was further divided?

Mr. CHAPIN. Thirty-one and a half per cent was divided [reading further from "Exhibit No. 1672"]:

Kidder, Peabody & Co., 14.80 per cent; Baring Bros. & Co., 4.70%; Old Colony Trust Co., 4%; Estabrook & Co., 2.50%; R. L. Day & Co., 2.50%; Hayden, Stone & Co., 1.66%; F. S. Mosely & Co., 1.34%.

Mr. NEHEMKIS. Making a total of how much, Mr. Chapin?

Mr. CHAPIN. 31½ percent.

Mr. NEHEMKIS. And it was from the 31½ percent, representing the New England proprietary interest in the Telephone business, that the

old firm of Kidder, Peabody subdivided its proprietary interest among the houses you have just enumerated?

Mr. CHAPIN. Correct.

Mr. NEHEMKIS. Mr. Chairman, I offer in evidence the document described and identified by the witness.

The CHAIRMAN. The document may be admitted.

(The document referred to was marked "Exhibit No. 1672" and is included in the appendix on p. 12211.)

Mr. NEHEMKIS. Mr. Chapin, I show you a photostat copy of a memorandum dated New York, May 5, 1920, and ask you to examine this copy and tell me whether or not it is a true and correct copy of an original in the files of the old Kidder, Peabody company?

Mr. CHAPIN. Yes; it is.

Mr. NEHEMKIS. Mr. Chairman, I ask that the document identified by the witness be received in evidence.

The CHAIRMAN. Let's see it.

(The document referred to was marked "Exhibit No. 1673" and is included in the appendix on p. 12211.)

Mr. NEHEMKIS. Will the reporter be good enough to return that document to me?

Mr. Chapin, I show you a photostat copy of the document dated September 30, 1920, containing certain pencil notations. I ask you to examine this copy and tell me whether or not it is a true and correct copy of the original obtained from the files of the old Kidder, Peabody company?

Mr. CHAPIN. It is a true and correct copy.

Mr. NEHEMKIS. Now, there are certain pencil notations, you will note, under the first title, which, by the way, will you be good enough to read, the left-hand title?

Mr. CHAPIN (reading from "Exhibit No. 1674"):

New England Proprietary Interests.

Mr. NEHEMKIS. And then there appears "Kidder, Peabody & Co.," and a pencil notation, "14-3/4." Can you tell me in whose handwriting that pencil notation is?

Mr. CHAPIN. That pencil notation is Robert Winsor's handwriting.

Mr. NEHEMKIS. And at the end of the column there is another pencil notation, "29-3/4." Whose handwriting?

Mr. CHAPIN. Robert Winsor's handwriting.

Mr. NEHEMKIS. And then in bold-face type there appears "September 20." Whose handwriting?

Mr. CHAPIN. Robert Winsor's handwriting.

Mr. NEHEMKIS. And then there appears other handwriting, and I note the following [reading from "Exhibit No. 1674"]:

Consolidated Interest with First Natl. & sent check for 5% to First Natl. Bank, on Am. Tel. 5% Deb. 1965 as per J. R. Chapin, Feb. 17-30.

Is that per your instructions?

Mr. CHAPIN. It was.

Mr. NEHEMKIS. But is that in your writing?

Mr. CHAPIN. It is not.

Mr. NEHEMKIS. Now, I wish you would explain to the committee whether or not this sheet called "New England Proprietary Interests," dated September 30, 1920, was kept alive in your files for this 10-year period, and these notations made upon it.

Mr. CHAPIN. It was in our files for that period.

Mr. NEHEMKIS. Would you call this a "cuff sheet," as a witness indicated yesterday, an informal memorandum, or does this document which has been kept alive for over 10 years represent something more formal than was characterized here yesterday as a "cuff sheet"?

Mr. CHAPIN. It is simply a memorandum for the people in our office to divide up the participation when it came along.

Mr. NEHEMKIS. But this document remained in your files for 10 years. Mr. Winsor apparently had occasion to refer to it. Entries were made upon it, percentages changed, in Mr. Winsor's own writing. In short, this was a vital document, was it not, Mr. Chapin? Let me put it this way, it was not a casual piece of paper?

Mr. CHAPIN. No; it wasn't casual.

Mr. NEHEMKIS. May I have it, sir? I offer it in evidence.

(The document referred to was marked "Exhibit No. 1674, and is included in the appendix on p. 12212.)

Mr. NEHEMKIS. I show you a letter dated August 17, 1920, from Dwight W. Morrow to Robert Winsor, and ask you if this is a true and correct copy of an original in the custody and possession of the old Kidder, Peabody firm?

Mr. CHAPIN. That is a copy of a letter which was copied from Mr. Winsor's private copy book, not in the possession of the old firm of Kidder, Peabody & Co.

Mr. NEHEMKIS. Will the record show that that letter was taken from the personal effects of the late Robert Winsor and not, as counsel indicated, from the files of the old Kidder, Peabody.

Can you tell me, Mr. Chapin, when Robert Winsor died?

Mr. CHAPIN. January 1930.

Mr. NEHEMKIS. January 1930?

Mr. CHAPIN. Yes.

Mr. NEHEMKIS. Thank you, sir.

Mr. Chairman, I ask that the letter identified by the witness be received in evidence.

The CHAIRMAN. It may be received.

(The letter referred to was marked "Exhibit No. 1675," and is included in the appendix on p. 12213.)

Mr. NEHEMKIS. Mr. Chapin, I show you a photostatic copy of a letter from Mr. Robert Winsor to Dwight Morrow dated August 18, 1920. Will you identify this as being a true and correct copy and indicate to me whether or not this came from the personal effects of the late Robert Winsor or from the files of the old Kidder, Peabody firm?

Mr. CHAPIN. That came from the personal effects of Robert Winsor.

Mr. NEHEMKIS. The letter is offered in evidence, if you please.

The CHAIRMAN. It may be received.

(The letter referred to was marked "Exhibit No. 1676" and is included in the appendix on p. 12213.)

Mr. NEHEMKIS. Mr. Chapin, I show you a letter dated September 28, 1920, on the stationery of J. P. Morgan & Co., Dwight Morrow to Robert Winsor, Esq. I ask you to identify this and tell me the original source, that is whether it came from Mr. Winsor's personal effects or from the files of the old K. P. firm.

Mr. CHAPIN. That letter came from Mr. Winsor's personal effects.

Mr. NEHEMKIS. May the letter be received in evidence?

(The letter referred to was marked "Exhibit No. 1677" and appears in full in the text on p. 11903.)

Mr. NEHEMKIS. I show you another letter, Mr. Chapin, dated October 1, 1920, from Robert Winsor to Dwight W. Morrow, Esq., addressed to Messrs. J. P. Morgan & Co. Will you identify this letter for me and tell me its source?

Mr. CHAPIN. That letter came from the private letter book of Mr. Robert Winsor.

Mr. NEHEMKIS. The private letter book of Mr. Robert Winsor?

Mr. CHAPIN. Yes.

Mr. NEHEMKIS. I ask that the letter be received in evidence.

The CHAIRMAN. It may be received.

(The letter referred to was marked "Exhibit No. 1678" and is included in the appendix on p. 12213.)

Mr. NEHEMKIS. I now show you a memorandum entitled "American Tel. & Tel. Co.," bearing the date May 6, 1920. Will you tell me if you can identify that document?

Mr. CHAPIN. I identify the document as taken from the files of the old firm of Kidder, Peabody & Co.

Mr. NEHEMKIS. I ask that this be received in evidence.

The CHAIRMAN. It may be received.

(The memorandum referred to was marked "Exhibit No. 1679" and is included in the appendix on p. 12214.)

Mr. NEHEMKIS. I now show you a memorandum in pencil dated January 31, 1924, and another document dated January 25, 1924, containing pencil notations and marks. Will you examine these two documents and tell me if you can identify them for me, Mr. Chapin?

Mr. CHAPIN. These documents came from the files of the old firm.

Mr. NEHEMKIS. Will you hold it just a moment? You notice the first document is written in pencil. Do you recognize that writing?

Mr. CHAPIN. I do.

Mr. NEHEMKIS. In whose handwriting is it?

Mr. CHAPIN. Clifford M. Brewer.

Mr. NEHEMKIS. What is the last name?

Mr. CHAPIN. Brewer.

Mr. NEHEMKIS. B-r-e-w-e-r?

Mr. CHAPIN. Yes.

Mr. NEHEMKIS. Clifford M. Brewer?

Mr. CHAPIN. Yes.

Mr. NEHEMKIS. Will you tell me who Mr. Clifford M. Brewer is or was?

Mr. CHAPIN. Mr. Brewer was the head of our syndicate department in Boston at that time.

Mr. NEHEMKIS. On the document dated January 25, 1924, I ask you to read the caption in bold-face type at the bottom of the document.

Mr. CHAPIN (reading from "Exhibit No. 1680-2"):

New England Proprietary Interests.

Mr. NEHEMKIS. And will you read the names of the members of that proprietary group?

Mr. CHAPIN (reading further) :

Old Colony Trust Co., 3%; Estabrook & Co., $2\frac{1}{2}\%$; R. L. Day & Co., $2\frac{1}{2}\%$; F. S. Moseley, $1\frac{1}{3}\%$; Haystone Securities, $1\frac{1}{3}\%$; First National Bank, 2%; National Shawmut Bank, 2%; Kidder, Peabody & Co., $14\frac{3}{4}\%$.

Mr. NEHEMKIS. What is the date of this memorandum, Mr. Chapin?

Mr. CHAPIN. January 25, 1924.

Mr. NEHEMKIS. Will you look at the bottom of the memorandum and tell me if you see an entry, a pencil entry or possibly an ink entry. Do you see that?

Mr. CHAPIN. Yes.

Mr. NEHEMKIS. What does that entry say?

Mr. CHAPIN (reading further from "Exhibit No. 1680-2") :

February 17, 30—as per J. R. Chapin Old Colony consolidated with First Natl. and check for 5% interest was sent to First Natl. Bank on American Tel. & Tel. 5% Deb. due 1965.

Mr. NEHEMKIS. Do I understand correctly that the notation which you have just read was placed upon this document at your request?

Mr. CHAPIN. Yes, sir.

Mr. NEHEMKIS. Then, I take it that this document which you have described is not a casual piece of paper but an important document relating to the New England proprietary interests of the old house of Kidder, Peabody?

Mr. CHAPIN. Yes.

Mr. NEHEMKIS. May I offer these documents just identified?

The CHAIRMAN. They may be received.

(The memoranda referred to were marked "Exhibit No. 1680-1" and "Exhibit No. 1680-2" and are included in the appendix on pp. 12214 and 12215.)

Mr. NEHEMKIS. Mr. Chairman, may it please the committee, I ask that the witness be temporarily dismissed, and that I be permitted to recall Mr. George Whitney. Mr. George Whitney, please.

TESTIMONY OF GEORGE WHITNEY, J. P. MORGAN & CO., NEW YORK, N. Y.—Resumed

Mr. NEHEMKIS. Mr. Whitney, you may recall that before the recess I had occasion to offer in evidence a large sheet of paper which I described as "Participations on original terms in Telephone financing headed by J. P. Morgan & Co." [Referring to "Exhibit No. 1666."] I hasten to point out that that word "headed" is used loosely. You will know what I mean when you see this chart. Here is a mimeographed copy which I show you. Will you examine it, please? There is a larger one here if you can't see that well enough.

Do you think you are familiar enough with it to discuss it?

Mr. WHITNEY. What is your question, please?

Mr. NEHEMKIS. I didn't ask a question, as yet. Are you sufficiently familiar with this so I may examine you on it?

Mr. WHITNEY. I have never seen it before, but I will try.

PERCENTAGE PARTICIPATIONS OF UNDERWRITING GROUP IN TELEPHONE ISSUES, 1916-1919

Mr. NEHEMKIS. All right; fine. If you will look at the issue of A. T. & T. $4\frac{1}{2}\%$'s, due 1918, \$50,000,000. Are you with me on this, Mr. Whitney?

Mr. WHITNEY. $4\frac{1}{2}$'s, 1916. Yes.

Mr. NEHEMKIS. The date was February 1, 1916?

Mr. WHITNEY. Right.

Mr. NEHEMKIS. And will you read the categories of houses on the top—Kidder, Peabody; J. P. Morgan—and run across the percentage interests for me; will you, Mr. Whitney?

Mr. WHITNEY. Yes, sir. [Referring to "Exhibit No. 1666."] This is headed Kidder, Peabody & Co. and Baring Bros., Ltd., $33\frac{1}{4}$; J. P. Morgan & Co., $21\frac{3}{8}$; First National, $10\frac{1}{16}$; National City Co. $10\frac{1}{16}$; Morgan, Grenfell & Co., $4\frac{3}{4}$; Kuhn, Loeb, $14\frac{1}{4}$; Lee, Higginson & Co., 5 percent.

Mr. NEHEMKIS. Now, Mr. Whitney—

Mr. WHITNEY (interposing). This, of course, did not come from our files.

Mr. NEHEMKIS. Will you read the footnote while you have it in your hand? You see the source there? What does that say?

Mr. WHITNEY. It says [reading from "Exhibit No. 1666"]:

Compiled from data supplied by J. P. Morgan & Co.

Mr. NEHEMKIS. Do you recall at the outset of your testimony I offered you certain large sheets which you identified as having come from your firm and caused to be prepared by you pursuant to my request?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. Do you want to withdraw that last answer?

Mr. WHITNEY. I never saw this compilation.

Mr. NEHEMKIS. Did you misunderstand that this was compiled on the basis of that other data?

Mr. WHITNEY. I do now; I didn't before.

Mr. NEHEMKIS. Are we clear?

Mr. WHITNEY. Quite.

Mr. NEHEMKIS. All right, let's go on. Will you proceed under Kidder, Peabody & Co. and Baring Bros., Ltd., of London, and go down the column this time instead of across and give me the percentage allocations for that house?

Mr. WHITNEY. Well, all the others are $31\frac{1}{2}$ percent.

Mr. NEHEMKIS. From then on until the issue of 1919. Correct?

Mr. WHITNEY. That is what it says.

Mr. NEHEMKIS. Now, will you go to the column J. P. Morgan & Co. and give me the percentages from 1916 down?

Mr. WHITNEY. $21\frac{3}{8}$ in 1916, and thereafter $20\frac{1}{4}$.

Mr. NEHEMKIS. Now, will you turn to the First National Bank of New York and do the same?

Mr. WHITNEY. $10\frac{1}{16}$; $10\frac{1}{8}$ from there on.

Mr. NEHEMKIS. I didn't hear the last part of your answer.

Mr. WHITNEY. $10\frac{1}{8}$ from there on.

Mr. NEHEMKIS. Will you turn to the National City Co. and do likewise?

Mr. WHITNEY. $10\frac{1}{16}$, 1916; $10\frac{1}{8}$, the remaining issues of this list.

Mr. NEHEMKIS. Will you turn to Morgan Grenfell & Co., Ltd., and give me the same information?

Mr. WHITNEY. $4\frac{3}{4}$ in 1916, the issue referred to, and $4\frac{1}{2}$ in the remaining issues listed here.

Mr. NEHEMKIS. And will you now turn to Kuhn, Loeb and give me the identical information?

Mr. WHITNEY. 141¼ as to the 1916 issue, and 131½ the remaining issues on this list.

Mr. NEHEMKIS. Now, will you turn to Lee, Higginson & Co.?

Mr. WHITNEY. 5 in that, and thereafter.

Mr. NEHEMKIS. Will you turn to Harris, Forbes and give me that information?

Mr. WHITNEY. Thereafter 5 percent. Mr. Nehemkis, may I inquire—

Mr. NEHEMKIS. Just a moment, I hadn't quite finished with you, Mr. Whitney. I want to now ask you one further question on this table and then you may comment. This is what has been heretofore testified to as a more nearly frozen account than other accounts. Would you accept that as being an accurate characterization?

Mr. WHITNEY. Not in the slightest.

Mr. NEHEMKIS. Did you have something you wanted to comment upon?

Mr. WHITNEY. I merely wanted to inquire whether these were all the issues that were taken from data that I identified this morning.

Mr. NEHEMKIS. Let me consult with one of my assistants. My assistant tells me that these were issues headed by J. P. Morgan & Co. and taken by the group.

Mr. WHITNEY. That is what my impression has been, but I just wanted the record to make it clear that there were other Telephone financings during the same period where these percentages wouldn't necessarily—

Mr. NEHEMKIS (interposing). We went over some of them this morning, you recall, on short term notes.

Mr. WHITNEY. And in this compilation by your investigators, as this is, these were just selected from the total list of financing of the Telephone Company.

Mr. NEHEMKIS. Just so you may complete your statement, based on information furnished by you.

Mr. WHITNEY. Yes, sir.

THE "LIBRARY AGREEMENT"

Mr. NEHEMKIS. Mr. Whitney, I want to show you certain documents which have been identified by the witness who preceded you. I show you a memorandum headed "New York, May 5, 1920." [Referring to "Exhibit No. 1673."] Would you glance at this memorandum, Mr. Whitney?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. Are you familiar with the substance of that memorandum?

Mr. WHITNEY. It was shown to me by one of your investigators a short time ago in New York and subsequently Mr. Chapin sent me a copy of it so that I am familiar with what it says. Of course it is not out of our files.

Mr. NEHEMKIS. Mr. Chapin identified it as having come from the files of the old Kidder Peabody.

Mr. WHITNEY. To that extent I am familiar with it.

Mr. NEHEMKIS. Did you request Mr. Chapin to send you that copy?

Mr. WHITNEY. I did not.

Mr. NEHEMKIS. Mr. Chapin volunteered?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. May I have it back, please? I am going to read to you, Mr. Whitney, from this memorandum.

Mr. WHITNEY. May I interrupt a second? There is another memorandum you just introduced also; when I come to it, may I talk about it?

Mr. NEHEMKIS. Oh, sure; I want you to talk about all these memoranda. That is what you are here for.

Mr. WHITNEY. That's fine.

Mr. NEHEMKIS. This memorandum is dated New York, May 5, 1920. [Reading from "Exhibit No. 1673"]:

"'Original terms' group on future purchases of A. T. & T. securities—" then the footnote:

Meaning purchase or underwriting of A. T. & T. or subsidiary company securities.

"—as agreed to, at 'The Library'—"

I am not quite familiar with the meaning of that phrase. What does that mean?

Mr. WHITNEY. I assume it means Mr. Morgan's library.

Mr. NEHEMKIS. Could you be a little more positive and tell me you know it means the library of Mr. Morgan's home?

Mr. WHITNEY. If there is any difference; yes, sir.

Mr. NEHEMKIS. All right, I just wanted to know whether you were sure about that [reading further]:

"Original terms" group on future purchases of A. T. & T. securities as agreed to, at "the Library" this morning between J. P. M.—

Whose initials are those?

Mr. WHITNEY. Mr. J. P. Morgan.

Mr. NEHEMKIS. The present Mr. J. P. Morgan?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS (reading further). "H. P. D."

Mr. WHITNEY. H. P. Davison.

Mr. NEHEMKIS. Mr. Davison is deceased?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS (reading further). "And R. W.,"—presumably Robert Winsor?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. Now the first statement apparently concerned the original terms group on the future purchases of all A. T. & T. securities as well as all subsidiary financing, and there was a meeting at the library on May 5, 1920, which was attended by J. P. Morgan, Henry P. Davison, and Robert Winsor.

Mr. Whitney, I show you a table entitled "American Telephone & Telegraph Co. and Associated Companies," and a letter from your partner, Mr. Alexander, addressed to me. Will you glance at this and tell me whether you recognize this as having been prepared by your firm?

Mr. WHITNEY. Yes, sir.

Mr. NEHEMKIS. Prepared by your people?

Mr. WHITNEY. Yes; but I may point out that we have substituted another one. That one was in error.

Mr. NEHEMKIS. So that we may do full justice to your workmanship, I am going to take the liberty of offering both.

By the way, Mr. Whitney, I intended to ask was Mr. H. P. Davison a partner of J. P. Morgan?

Mr. WHITNEY. He was.

Mr. NEHEMKIS. Mr. Chairman, may I offer in evidence the tables identified by the witness?

The CHAIRMAN. The tables may be received.

(The documents referred to were marked "Exhibits Nos. 1681-1 to 1681-3" and are included in the appendix on pp. 12215 and 12216.)

Mr. NEHEMKIS. I note, Mr. Whitney, that from January 1, 1920, to June 16, 1934, there was \$832,000,000 of Telephone financing.¹ The selling syndicate interest in that financing was over \$50,000,000. "Our net profit"—meaning the profit of J. P. Morgan & Co.—was over \$900,000, and the total profit before overhead expenses, salaries and taxes, \$2,969,320.64. So that the conference which was held here on May 5, 1920, concerning the future purchases of A. T. & T. securities was a pretty substantial conference; it concerned itself with \$832,000,000 of future business.

Mr. WHITNEY. Oh, no, it didn't, Mr. Nehemkis. What is concerned was the situation at that time, which is quite a long story. It may have resulted, there may have been that amount in the total business done thereafter, but the memorandum you showed me had no reference whatever to \$800,000,000 of securities.

Mr. NEHEMKIS. Of course not; I read you from this table.

Mr. HENDERSON. Technically, Mr. Whitney is right.

Mr. NEHEMKIS. I will accept that correction, I want to be technically correct in all respects here.

Mr. WHITNEY. That was a very substantial financial program.

Mr. NEHEMKIS. Mr. Whitney, I have here a table the data for which was supplied by your firm and this table is entitled [reading from "Exhibit No. 1682"]:

Bankers' Gross Commissions on Issues of American Telephone and Telegraph Company and Associated Companies, Managed by J. P. Morgan & Co. or Morgan Stanley & Company, Incorporated, 1906-1939.

I find that the bankers' gross commissions on Telephone issues for the period 1906 to 1930 was \$26,905,000. I find that the bankers' gross commissions on issues managed for the period 1935 to 1939 by Morgan, Stanley was \$11,470,750. So that the total for the period 1920 to 1930 was \$26,905,000.

Mr. WHITNEY. In the first place, I would be willing to wager you didn't get that out of our office.

Mr. NEHEMKIS. Mr. Whitney, I want to offer my documents. You will have plenty of chance to explain.

Mr. WHITNEY. You introduced it, didn't you, as saying it came out of our office?

Mr. NEHEMKIS. Oh, no; I said this was data supplied by J. P. Morgan & Co.

Mr. WHITNEY. By J. P. Morgan & Co. I am pretty sure it didn't. Part of it may have come out, but all of it I am sure didn't.

Mr. NEHEMKIS. I think I indicated in my original statement, Mr. Whitney, that the source of this was data supplied by J. P. Morgan & Co. and Morgan, Stanley & Co. and, I am now advised, by the Federal Communications Commission. These figures are perfectly

¹ See "Exhibit No. 1681-3," appendix, p. 12217.

accurate: one, an official source; two, your own figures; three, the figures of Morgan Stanley.

Mr. WHITNEY. I did not understand that you included Morgan, Stanley & Co. That was an error on my part.

Mr. NEHEMKIS. I would like to offer this table, Mr. Chairman.

The CHAIRMAN. The table may be received.

(The table referred to was marked "Exhibit No. 1682" and is included in the appendix on p. 12218.)

Mr. MILLER. May I ask a question, Mr. Nehemkis? What do you mean by gross commissions? Does that mean the spread between the issue price and the purchase price that the company received?

Mr. WHITNEY. Gross spread between the issue and the net price before any expenses of any kind or, to put it another way, between the price paid to the company and the price paid by the ultimate consumer. If I can take Mr. Miller's point on that, that is gross. Now, of course, it is well known that a certain portion goes to the original terms group, a certain portion to any intermediate group you might have, and a certain portion to the bond-distributing houses scattered all through the country, seven or eight or nine hundred of them. I think that this figure Mr. Nehemkis referred to in the first instance, shows that the amount of issue—may I withdraw that?

Mr. NEHEMKIS. Why don't you, if you want to comment on that later, send a supporting memorandum?

Mr. WHITNEY. I will.

Mr. MILLER. It is about 2½ percent gross as I see it.

Mr. WHITNEY. That is about what it averages.

Mr. NEHEMKIS. Now to return to the conference at the library on May 5, 1920, Mr. Whitney. I continue reading from that memorandum [reading from "Exhibit No. 1673"]:

K. P. & Co.—

Which I take it to mean Kidder, Peabody & Co.—

to manage N. E. & J. P. M. & Co. the rest of the country.

I may assume from that that Kidder, Peabody was to have the right to manage the New England proprietary interests as described by Mr. Chapin, and J. P. M. & Co. was to have the exclusive right to manage the rest of the country. Would you say that was a fair interpretation?

MR. WHITNEY'S COMMENTS ON ORIGIN OF TERM "PROPRIETARY INTERESTS"

Mr. WHITNEY. I am afraid not. If I may be permitted, I should like to say a word on that "proprietary" interest. That memorandum does not speak of "proprietary" interests, it speaks of original terms. I was very glad to learn a few minutes ago where the word started from, because I had never heard it used before until the other day. I consider it, if I may say so, a complete misnomer, because if I understand the word "proprietary" it means ownership, and obviously there would have to be some agreement by the company to anything of that kind. I can state unequivocally that in an experience dating from 1916 down through 1930 that the company had not the slightest agreement of any kind with us that they would continue to finance through us. I can't remember a single instance where the

question ever came up. They did consult with us in 1920 as to a program that Mr. Gifford was planning on refinancing. It is quite a long story, and it may come later. But the question of "proprietary" interest I consider is a complete misnomer.

The CHAIRMAN. Was the word used, Mr. Whitney, to define the transaction between the Telephone Co. and the investment bankers, or was it not used to define an understanding among the bankers?

Mr. WHITNEY. Well, Mr. Chairman, I can only say of my personal knowledge, extending as I say in this particular business back to 1916, that I never heard the word used before until I came down here to these hearings, and I didn't know where it had come from. I was very much interested in Mr. Henderson's explanation that the S. E. C. got the term from Kidder.

I don't remember in all the years that I was working with Kidder on this business that I ever heard them use it. Of course, the New England subparticipations, as has been disclosed by this evidence, is a matter that we never knew anything about. We only knew of it casually. We never had a record of who they were. I never knew until way along in the middle 20's who the people were. I am not questioning Mr. Winsor's use of the word, but I merely want to explain that we never used it, and if I understand what the word itself means, we never considered that there was any such relationship as existing between us and the company, the group and the company, or between the members of the group itself. It was a group organized to do a job that in Mr. Gifford's estimation was going to be a big job, and it was, and it was a fine job. But there were to be changes if they wanted them, nobody had any question about it as long as we had the business, but the use of the word "proprietary" implies some vested right, and I can assure you without any equivocation in our thinking in my office that notion never had been connected with this business or any other.

The CHAIRMAN. Let me say that, sitting here and listening to this testimony, it never occurred to me to give to this word any legal, strict legal significance. I have interpreted it as meaning the general understanding that had grown up with respect to the manner in which these distributions would be allocated.

Mr. WHITNEY. Well, the use of the word is just as new to me as it is to you.

The CHAIRMAN. Nevertheless, apparently it does describe a fact which did exist, a condition, but not in the legal sense.

Mr. WHITNEY. I understand, of course, but I merely wanted to point out that whatever implication may be in the word, whether legal or otherwise, the use of the word was completely foreign to us and to the best of my knowledge I never heard of it.

The CHAIRMAN. Would I be incorrect in drawing the inference that when there was a division in the "library" that that division would stand until the "library" again changed it?

Mr. WHITNEY. As a matter of fact, it didn't even stand in the next deal.

Mr. NEHEMKIS. I think we had better wait until the development of the testimony to see whether the witness' remark is correct.

I want to go back to what this agreement was all about and attempt to follow through, if I may, sir, just what was decided by these three men, Mr. Morgan, Mr. Davison, and Mr. Winsor. They

agreed that there was to be a division of the country. Kidder, Peabody was to manage New England, J. P. Morgan was to have the management of the rest of the country, and then there appears on this memorandum¹—I believe you have copies of it before you—the percentage allocations for the New York group and the New England group, and the New York group took 70 percent, the New England group took 30 percent. In turn, the New York group divided up its 70 percent in the following fashion: J. P. Morgan & Co. got a 20-percent interest in all future purchases of A. T. & T. securities as well as securities of the subsidiary companies according to the understanding entered into on May 5. The First National Bank got a 10-percent interest. The City Bank got a 10-percent interest; Kuhn, Loeb & Co., a 10-percent interest; Harris, Forbes & Co., a 5-percent interest; Lee, Higginson & Co., a 5-percent interest; Guaranty Trust, 5 percent; and the Bankers Trust, 5 percent; making 70 percent to the New York group.

Now, the New England group had divided up its 30-percent proprietary interest, and I think I now use it correctly as it was intended by the previous table, as follows: Kidder, Peabody & Co. retained a 15 percent interest in all of the Telephone business; the Old Colony Trust, 3-percent interest; Estabrook & Co., a 2½-percent interest; Day & Co., 2½-percent interest; Moseley & Co., 1½-percent interest; Hayden, Stone & Co., 12½ percent.

First, let me find out, Mr. Chairman, what that Boston bank is.

The CHAIRMAN. First National.

Mr. NEHEMKIS. First National of Boston a 2-percent interest and the Shawmut Bank a 2-percent interest, making the total 30, the total of New York 70, giving a total of 100 percent.

I also observe, Mr. Chairman, may it please the committee, a very significant notation. You will notice on the right-hand side [referring to "Exhibit No. 1673"] the word "negotiations" underscored, and the statement as follows:

Negotiations to be joint but both free to talk with the Co. and to help them in any way in their power.

Now, perhaps Mr. Whitney can enlighten us on that. Isn't that a rather anomalous provision? Usually one banker does the talking for the entire group. Do you happen to know—you were the specialist at this time in Telephone matters—how it happened that it was agreed upon that both houses would talk? One other question: will you develop it in your answer: Why is it significant for only one banker to do the talking to a company?

Mr. WHITNEY. Let me be sure. I think I have got three questions here.

Mr. NEHEMKIS. You can take them in any order you wish.

Mr. WHITNEY. The question that I didn't answer before related to the division of the rest of the country. That bore on my own knowledge of handling a selling syndicate, which as Mr. Miller suggested a few minutes ago, was the ultimate end of the business—getting it through successfully.

This note that is on the side there has been a great puzzle to me, because as the evidence shows, this did not come out of our files. It is not initialed by any of our partners.

¹ "Exhibit No. 1673."

Mr. NEHEMKIS. You have indicated, Mr. Whitney, that this document was only shown to you very recently. Now, it has been identified. I don't think you need discuss that.

Mr. WHITNEY. Yes. I am not questioning anything about it. I want to make that very clear. But there is, as I said a minute ago, another memorandum that you have identified—

Mr. NEHEMKIS (interposing). Well—

Mr. WHITNEY (interposing). Well, now, let me get back. I was puzzled as to what that does mean, because in my experience—most of the talks with the Telephone Company, when there was a piece of financing on, in their bond business, were held mostly with us. But I think it must refer to the fact that Kidder, Peabody & Co. had a great deal of talk in connection with the sale of common stocks, of various plans they had for employees. They had a lot of contacts completely outside of bond financing. I don't know the significance of that statement, because we both had always talked to the company, and I don't quite know—I can't see any reason why Mr. Winsor was so specific about it.

Your third question was whether it wasn't unusual for more than one—well, that depends, of course—it is very difficult for me to generalize about that, but I suppose the obvious reason why some one individual or some individual firm is designated by a group of people for making a joint purchase is that they think it is a great deal simpler to have one man talk than to have a town meeting about it, and I suppose it is because that particular firm or individual is trusted by the other participants in the business to interpret the views of the group, when they have any, and so I don't think that you can say that was any custom as to how negotiations were handled.

Obviously, when I was in the business, it was generally _____ for one or two to discuss matters. I wouldn't say there were—

Mr. NEHEMKIS. Do you mind if I ask you a question now?

Mr. WHITNEY. Any!

Mr. NEHEMKIS. In your long experience with the firm of J. P. Morgan & Co., can you tell me in how many of the old accounts managed by J. P. Morgan & Co., you ever took any other bankers along with you when you talked with company officials?

Mr. WHITNEY. Well, I could think of several; I don't quite know what you mean by account.

Mr. NEHEMKIS. Well—

Mr. WHITNEY (interposing). If I may designate them as transactions or bond issues—

Mr. NEHEMKIS (interposing). No; I will be more specific, if it will help you. Take the New York Central Railroad, that was always regarded as an old account of yours; you were the advisers of the company, they respected your judgment, leaned upon you for technical help. Now, did you drag along with you to your conferences any members of the community?

Mr. WHITNEY. No; that was business which we settled solely on our own responsibility. J. P. Morgan & Co., as you may know historically, were fiscal agents of the New York Central Railroad. I think that was abandoned in 1916. So that was a case where all the negotiations were exclusively with us.

Mr. NEHEMKIS. Well, now—

Mr. WHITNEY (interposing). Certainly I can tell you, for example, about the Great Northern and Northern Pacific, in which case—and the Burlington and others—there were various times when we generally discussed the matter with the First National Bank. I am going back quite a while now, back to 1921. I remember discussing certain things in connection with General Motors financing with others, going to conferences, about the general question of policy, what things should be done, and so forth.

Mr. HENDERSON. You mean other members of the group went with you to general conferences?

Mr. WHITNEY. Well, there was no group, Mr. Henderson, because it was an isolated thing. As a matter of fact, I think the business was finally consummated—the transaction was exclusively with us—but the question of going with one or two others is not an isolated thing. When it comes down to it, down to the actual transactions, when you get down to what I referred to this morning as the technical arrangement of a particular bond issue or a particular security, that, generally, we did alone, for the simple reason that, as we did the Telephone business—I mean, those negotiations as to the arrangement of the mortgages, going over all the infinite papers that are required, the footwork that is required, doing a thing like that, was done by our statistical department and by our organization. We consummated it with the other members of the group when the time came to talk prices or to talk general philosophy, and we consulted them as any prudent man does when he tries to get the best possible advice he can on an important line of business such as this. But I don't want to, I can't, as I said before, explicitly, Mr. Henderson, say, or generalize, as to what is the practice, and that was the first case that springs to my mind. If you would be interested, I will try to think up some others.

Mr. HENDERSON. I think it would be very helpful.

Mr. WHITNEY. But I don't think it means anything anyway.

Mr. NEHEMKIS. Well, I just was puzzled, as you were, because Robert Winsor was a very distinguished banker and he was the head of one of the great houses of this country.

Mr. WHITNEY. Absolutely.

Mr. NEHEMKIS. He was an associate of yours. As a matter of fact, he was a former employer of yours.

Mr. WHITNEY. Mine?

Mr. NEHEMKIS. Wasn't he?

Mr. WHITNEY. Well, what has that got to do with it?

Mr. NEHEMKIS. Well, you seemed to be worried about it. And he came back from this conference, after this discussion, and he made this entry [reading from "Exhibit No. 1673"]:

Negotiations to be joint but both free to talk with the Co. and to help them in any way in their power.

Well, suppose we continue, Mr. Whitney.

The agreement also apparently covered the security issues of subsidiary companies in addition to issues of the parent company. Now, didn't that mark a departure from the earlier arrangements? If I recall correctly, you testified—

Mr. WHITNEY (interposing). Well, I will answer that.

I think it did mark a departure in that at that particular time. Mr. Gifford, of the Telephone Co., was then and until 1919 vice president in charge of finance. He had been in the employ of the company before—he came down to Washington during the war. When he came back—of course, I am not going to talk about Mr. Gifford—he came to us, and I assume to Kidder, because he felt that the financial condition of the Telephone Co. needed a complete resetting. You read this morning, or there was introduced, and I testified from it, a list¹ of a lot of companies. In 1919 there had been a big issue done with the Southwestern Bell Telephone in 5-year notes—not a success. He felt that he had to get his balance, his ratio, between bonds and stocks in better order if, as he saw the picture, there was going to be this tremendous development of the telephone business. He made a survey—Mr. Gifford—and he came and said that he had a program which might run over several years, of resetting the subsidiary financing and the telephone finances, so that, between them, they would have a more appropriate ratio. If you check up, you will find that in 1920 the ratio of debt to stock in the Telephone Co. was the worst that it had ever been—I mean the highest ratio of debt to stock and that there has been a constant improvement down to say, 1930; and Mr. Gifford had the great ability, he had the foresight, to see that unless something were done in getting this reset, he was going to get into a position where they couldn't finance properly.

So we started, and he came and discussed with us, Mr. Chairman, along the lines I talked about today, as experts, as people who would plan a campaign, and a part of that campaign with which we had nothing to do whatever—no one of the bankers, in fact—was the flotation or sale to his own stockholders of these common stocks.

Now that memorandum—that meeting, if I may say so, was instigated by me. You have introduced in evidence a memorandum in pencil which is in my handwriting.² When we were charged with this job, we felt that the retail distribution of the country would not stand having 30 percent of the final selling done in New England. We had introduced into this group two new houses, the Guaranty Co. and the Bankers who had, about that time, become substantial national distributors, and we felt that if we were going to get the benefit of retail distribution of those national houses, the City Co., Lee, Higginson, Harris, the Guaranty, and the Bankers, to get the full strength and power of their organizations, that we ought to have a larger percentage of the original group profits go to those four people.

There is a pencil memorandum here——

Mr. NEHEMKIS (interposing). We will come to that in just a minute.

Mr. WHITNEY. All right; I will leave that out for now.

Mr. NEHEMKIS. I wish you would.

Mr. WHITNEY. I was a partner then. I had been a partner for about 4 or 5 months, and I went with our bona specialists to Mr. Davison, who was in charge of Telephone financing in our office, and said to him, "Will you not take up with Kidder, Peabody & Co., Mr.

¹ "Exhibit No. 1631-2."

² "Exhibit No. 1679."

Winsor, this program? Mr. Gifford wants to pursue in the Telephone Co. a realignment of these percentages with these two new people in there." A meeting was held, and Mr. Davison was not successful in getting the 9 percent that I had suggested should be taken from the New England distribution and given to the rest of the country.

Now this is a memorandum obviously written before the meeting, this one I have just been talking about, which shows the figures that were settled—

The CHAIRMAN (interposing). Do you know why he was not successful in inducing the New England group to surrender that 9 percent?

Mr. WHITNEY. I don't. Mr. Davison is dead, Mr. Chairman, and Mr. Alexander and I have spoken to Mr. Morgan about that, as the only person who is now living who was at this meeting, and Mr. Morgan doesn't even remember there was such a meeting and doesn't remember anything about it.

The CHAIRMAN. Now, this—

Mr. WHITNEY (interposing). So I can't tell you.

The CHAIRMAN. And your testimony is that you, a new partner, after examining this situation, made up your mind that for the better distribution nationally of these securities, a certain percentage of the so-called proprietary interests should be taken away from New England; you suggested that to Mr. Davison, and the account was so frozen that even he couldn't change them?

Mr. WHITNEY. Well, you see, Mr. Chairman, at this time there were being added to this list that we have been talking about this morning, two additional people, so it was necessary to have a realignment of the percentages. It wasn't a question of the "proprietary" rights. Looking back on it, which is always so easy, I now realize that I didn't know at that time that he had this subparticipation in New England. So I can see it was very difficult for Mr. Winsor to do. If I had been in Mr. Winsor's place, probably I should have felt just as he did. But that is what this memorandum really conveys to me. The Telephone Co. was starting their actual program. They had to get reset financially, and that would take really hours for me to try to explain that to you in detail, and I would probably do it wrong anyway.

But with those talks I was having then—and I am sure Kidder was, if my memory serves me right, with Mr. Gifford on his program—Mr. Gifford wanted us to get set to help him as experts, in the financing, the execution of his program. These two houses came into the picture there, so it involved a realignment anyway of any traditional percentages there might be, and I wanted, being perhaps interested more then in the rest of the country distribution than I was in New England, to get them what I thought was a more appropriate percentage of the total.

Mr. Davison, I just remember him coming back, saying that it wasn't settled and, well, I have been told that we wouldn't speak of the other memorandum, but—

The CHAIRMAN (interposing). But there was then a traditional aspect to this thing?

Mr. WHITNEY. I think certainly there was, and I think Mr. Winsor felt that he didn't agree with us. Well, I know he didn't agree with me from subsequent conversations.

Mr. NEHEMKIS. You say, Mr. Whitney, that you instigated this conversation of May 5, 1920?

Mr. WHITNEY. Yes, sir.

Mr. NEHEMKIS. If I understood you correctly?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. You weren't present, though?

Mr. WHITNEY. No. Well, I was only a kid.

Mr. NEHEMKIS. When did you first learn about the results of the conference?

Mr. WHITNEY. Next morning.

Mr. NEHEMKIS. Who told you?

Mr. WHITNEY. Mr. Davison.

Mr. NEHEMKIS. Mr. Chapin, may I recall you for a moment, please?

TESTIMONY OF JOHN R. CHAPIN, KIDDER, PEABODY & CO., BOSTON,
MASS.—Resumed

MR. WHITNEY'S AIDE MEMOIRE PREPARED FOR THE "LIBRARY" CONFERENCE

Mr. NEHEMKIS. Mr. Chapin, above these columns of figures appear the notations, "Davison's Suggestions," and then in the next column, "Finally agreed upon."¹ Can you tell me in whose handwriting that is?

Mr. CHAPIN. Those were in Robert Winsor's handwriting.

Mr. NEHEMKIS. That is all, Mr. Chapin.

Mr. Whitney, you will find—oh, just a moment, Mr. Chapin; may I call you back for a second? Whose handwriting is this, "May 6, 1920"?

Mr. CHAPIN. Mr. Winsor's handwriting.

Mr. NEHEMKIS. Thank you, sir.

TESTIMONY OF GEORGE WHITNEY, J. P. MORGAN & CO., NEW
YORK, N. Y.—Resumed

Mr. NEHEMKIS. Now, Mr. Whitney, will you look at this memorandum that you have been wanting to talk about, and tell me in whose handwriting the rest of the memorandum is?

Mr. HENDERSON. Has that been introduced in evidence?

Mr. NEHEMKIS. It has been identified.¹

Mr. WHITNEY. This column here—

The CHAIRMAN (interposing). You are referring now to the first and second columns?

Mr. WHITNEY. Yes; the list of initials and the next one are in my handwriting.

Mr. NEHEMKIS. Are in your handwriting?

The CHAIRMAN. Which one is in your handwriting?

Mr. WHITNEY. This original—initial one.

The CHAIRMAN. The first column?

Mr. WHITNEY. Which is headed—I thought it was written by Davison, but Mr. Chapin says it was Mr. Winsor. That is all right with me. But I do know my own handwriting and the first column is my own, and if you will see—

¹ "Exhibit No. 1679."

The CHAIRMAN (interposing). Well, now, when you use the phrase, "the first column," you are referring to the first column of figures?

Mr. WHITNEY. No; I am referring to this list and this list [indicating].

The CHAIRMAN. Pardon me, Mr. Whitney, but the reason I am so technical about this is so that it may be clear in the record to anybody who reads it.

Mr. WHITNEY. May I try to do better? There is a column of initials of firms—J. P. M. & Co., First National, City, K. P. & Co., K. L. & Co., H. F. & Co., L. H. & Co., Guaranty, Bankers, New England, you see. Now, the next column is headed "Davison's Suggestions," and Mr. Chapin has just identified that as being in Mr. Winsor's writing. There is a list of figures down there. The next one is "Finally agreed upon," and a list of figures, both adding up to 100 percent. There is "May 6, 1920," down here in the corner and you will remember the conference of May 5. There is also a receipt thing by Kidder, Peabody & Co., a time-clock thing, marked "May 12, 1920."

Mr. NEHEMKIS. Now, Mr. Whitney, I think I asked you just to explain the notations, and you are departing from that. Will you return the memorandum to me?

The CHAIRMAN. Well, Mr. Nehemkis, he was just about to testify as to the handwriting.

Mr. NEHEMKIS. Oh, I'm sorry.

The CHAIRMAN. You see, he was interrupted. Proceed, please. Now, the first column, giving the list of the names of the firms, in whose handwriting is that?

Mr. WHITNEY. Mine.

The CHAIRMAN. Yes; and the second column, being a column of figures entitled "Davison's Suggestions," is in whose handwriting?

Mr. WHITNEY. Mine.

The CHAIRMAN. And the third column has just been testified to by Mr. Chapin as being in Mr. Winsor's handwriting.

Mr. WHITNEY. I wouldn't know whose it was.

The CHAIRMAN. No; but I say, it has been testified to by Mr. Chapin.

Mr. WHITNEY. Oh, excuse me. Yes.

The CHAIRMAN. And the date, May 6, 1920, has been testified to by Mr. Chapin as in Mr. Winsor's handwriting, as well as the title "American Telephone and Telegraph."

Mr. NEHEMKIS. That was testified to, I believe, earlier, as being someone in the old Kidder, Peabody firm. We don't know who. Did I understand correctly, Mr. Whitney, that you have described certain notations in response to the questions as having been made by yourself?

Mr. WHITNEY. Yes, sir.

Mr. NEHEMKIS. Now, this document was identified as coming from the files of the old Kidder, Peabody & Co. Mr. Whitney, will you explain to this committee how it happens that you did not make available to the authorized representatives of this committee this document, in response to our request?

Mr. WHITNEY. You just said it came from Kidder, Peabody files. We didn't have it. I never saw that until—as I testified a little while

ago, Mr. Chapin sent me certain papers. This, we haven't anything like this in our file.

Mr. NEHEMKIS. You mean this mysteriously made its way into the files of the old Kidder, Peabody company?

Mr. WHITNEY. Why, Mr. Nehemkis, I was saying that there is still a further notation on this memorandum which shows, as is the customary form stamped on papers when received by an office, the date mark of May 12, 1920. I can't testify definitely, but I think it is a perfectly fair assumption that this paper was brought back by Mr. Davison and shown me, that we made a record of what the agreement was for future reference, and that he then sent the original paper to Mr. Winsor as indicated, he receiving it on the 12th of May.

The CHAIRMAN. You recognize your handwriting there?

Mr. WHITNEY. Certainly.

The CHAIRMAN. You remember the occasion on which you made it?

Mr. WHITNEY. I might say that I was very much relieved when I saw this because it did revive my memory as to a lot of details about it.

The CHAIRMAN. I said, do you remember the occasion on which you made that?

Mr. WHITNEY. Oh, certainly, that is what I said; I instigated the meeting, because these are the figures we asked Mr. Davison to try to arrange for better distribution for the country.

Mr. NEHEMKIS. Mr. Chairman, I am afraid that I have lost some of Mr. Whitney's remarks. May I ask to have the reporter read them back?

The CHAIRMAN. Yes. Which ones are you referring to?

Mr. NEHEMKIS. Following my last question.

The REPORTER (reading):

I was saying that there is still a further notation on this memorandum which shows—as is the customary form stamped on papers when received by an office, the date mark of May 12, 1920. I can't testify definitely, but I think it is a perfectly fair assumption that this paper was brought back by Mr. Davison and shown me, and that we made a record of what the agreement was—

Mr. NEHEMKIS. Stop. Now, Mr. Whitney, when our representative called on your firm, did they not ask you, as duly authorized representatives of this committee, to make available to us all documents—memoranda, letters—in your files, pertaining to this transaction?

Mr. WHITNEY. And everything else.

Mr. NEHEMKIS. Now—just a moment—

Mr. WHITNEY (interposing). And you got—

Mr. NEHEMKIS (interposing). Mr. Chairman, I must request that you rule—

The CHAIRMAN. The witness was answering the question, Mr. Nehemkis, I think. You may proceed.

Mr. WHITNEY. Any other question therein, I would be delighted to answer.

Mr. NEHEMKIS. Fine. I just want to know the meaning of that statement you just made, that you made a complete record of what Mr. Davison had told you. Why did you not furnish us that document?

Mr. WHITNEY. Well—

Mr. NEHEMKIS (interposing). Read back that one sentence, if you will.

MR. WHITNEY. I got the sentence all right, Mr. Nehemkis, and the last thing I want to do is to appear in any way evasive. The next thing, and even more important than that, I would hate to have the committee feel that we didn't give you every single document in our file. We worked hours and hours to produce data for you, and there is no such record as this in our office. If that is clearly understood, I would be delighted to explain what I meant by what I said.

MR. NEHEMKIS. I wish you would.

MR. WHITNEY. We have in our office, or had, back in those days, a thing called a syndicate department, through which went the technical bookkeeping entries of syndication of securities. We had there, obviously, certain things to do with the Telephone Company, and undoubtedly, this was some notation for future business, because there was a piece of business pending.

You have got everything. I just testified to the chairman that I was much relieved when I found this because it did stir up my recollection of this other memorandum.

MR. NEHEMKIS. The May 5 memo?

MR. WHITNEY. The May 5 memorandum, which I saw 3 or 4 days before this hearing, and I knew the figures in that were accurate, although, as I have already testified, they were changed a few months thereafter. I undoubtedly went to the fellow who handled the bookkeeping part of our office.

MR. NEHEMKIS. Mr. Keyes?

MR. WHITNEY. Oh, no; he is our general manager.

MR. NEHEMKIS. Who is that person?

MR. WHITNEY. Let's see, in 1920, I couldn't remember who it was, some head of the department. So that there would be some notation when another Telephone transaction came up, that we, who had the handling or the syndication of it, would know what had been agreed on, for the next deal.

FIRST ISSUE AFTER THE "LIBRARY AGREEMENT"

MR. WHITNEY. As I say, when the next deal came, these percentages didn't hold. It was a very minor change, you know, but I stand by my statement, and I also stand by the absolutely unequivocal statement that there isn't a single thing in our office that you gentlemen have asked us for that you haven't had. It has been difficult sometimes to present it the way you wanted it, but we have tried, and there is nothing like this in our office.

MR. HENDERSON. In other words, you haven't even yet located the record you made before this thing went back to Kidder?

MR. WHITNEY. No, because the only record we have kept on this, Mr. Henderson, is a record of the transactions as they actually took place. The next issue came in the fall, and I think it was Bell Telephone of Pennsylvania. The percentages which you will find there are substantially as stated here, with the very small change of Kuhn, Loeb, who got $10\frac{3}{4}$. There was a quarter taken off three other people. So the only records we would have of a thing like this are just in the run of business, and if I may say so, it seems to me to indicate that we didn't take these things as a very permanent, lasting, frozen arrangement; that when the next transaction came up, we

dealt with it in that way, subject always to the thought that the next time it might be changed again. And our permanent records you have got.

Mr. HENDERSON. You mean to say you didn't attach importance to Davison's suggestion which originated with you and which involved questions of future participations? Here is a record of it and you didn't think it important enough to keep? Does that mean you had it in your head, or you knew you could go back to the last issue and get it?

Mr. WHITNEY. No, I don't think so. It has got to be considered, Mr. Henderson, in connection with what we were doing at the time. There was this Bell Telephone thing planned. We did not know what the longer future held.

Mr. HENDERSON. But you did know pretty much what the agreement was as to the division, didn't you?

Mr. WHITNEY. We knew, my senior partner told me, that for the next Telephone operation these percentages had been fixed between him and Mr. Winsor, including these two new participants in the group, in that way. Well, what I almost surely would have done would have been to make a notation somewhere so that I wouldn't forget about it, because it did not pay to forget things with him. When the deal came it was translated into actuality, and my "aide memoire" to remind me of the way he wanted me to do it would have been destroyed with other working papers, and the fact that the Bell Telephone was handled in this way is proof that I did what I had been told to do, plus that very minor alteration of three-fourths of 1 percent.

The CHAIRMAN. Was the next issued divided in accordance with the figures that appear in the second column?¹

Mr. WHITNEY. No, sir. I say—

The CHAIRMAN (interposing). I meant, when I said the second column, the second column of figures.

Mr. WHITNEY. It was, with the exception of Kuhn, Loeb who on the last column to the right have got 10 percent. They actually got 10¾, and the Guaranty, the Bankers, got 4¾ each, and I think that Kidder, or the New England group got 29¾.

The CHAIRMAN. Well, then, the label at the head of that column finally agreed upon is not, then, accurate?

Mr. WHITNEY. It was altered. We never worked under that final column which proves that this was not static.

The CHAIRMAN. So there was another distribution, another—

Mr. WHITNEY. Alinement.

The CHAIRMAN. Alinement?

Mr. WHITNEY. Yes, sir.

May I say—I want to make it very clear—I am not questioning in any sense the accuracy of that memorandum. I never have, or any of those figures. If I talk about them, I am not questioning them.

The CHAIRMAN. I understand that; you have not disputed that point at all.

Mr. NEHEMKIS. Mr. Chairman, these are rather precious documents, and I don't want to be carrying them around. Can I get them into evidence right now?

¹ See "Exhibit No. 1679," appendix, p. 12214.

Mr. ALEXANDER. We have some more copies. [Laughter.]

The CHAIRMAN. These exhibits may now be admitted into the record.¹

Mr. NEHEMKIS, do you wish to suspend at this point?

Mr. NEHEMKIS. I think so, if we may, until Monday morning, if that is the committee's pleasure.

The CHAIRMAN. Until Monday morning at 10.

Mr. NEHEMKIS. Yes; at which time we will resume with Mr. Whitney and the other witnesses involved in the presentation of the telephone story.

The CHAIRMAN. Now, then, for the purposes of this particular hearing, Mr. Whitney and Mr. Alexander may step aside.

Before the committee adjourns, however, it will now receive a suggestion from Mr. E. F. Connelly, president of the Investment Bankers Association. Mr. Connelly will step forward.

Mr. EMMETT F. CONNELLY. Mr. Chairman.

The CHAIRMAN. You may be seated. You are not giving testimony, you are making a request.

Mr. CONNELLY. Thank you, sir.

The CHAIRMAN. I may say that Mr. Connelly has approached the chairman and the executive secretary with respect to the desire of his organization to request an opportunity to be heard. You may proceed, Mr. Connelly.

STATEMENT BY EMMETT F. CONNELLY, PRESIDENT, INVESTMENT BANKERS ASSOCIATION OF AMERICA, DETROIT, MICH.

Mr. CONNELLY. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, my name is Emmett F. Connelly. I am president of the Investment Bankers Association of America, a voluntary association composed of 723 dealers in securities, having 1,410 offices located in 210 cities and in 40 States. I was elected by the association membership at its convention in October to serve for 1 year.

Since its inception, early in the year, our members have been keenly interested in the constructive possibilities of this inquiry. More recently, some of our members, particularly those of us from the West and South, have evidenced the feeling that any study of the investment-banking industry, such as comes within the scope of this committee's powers, should be sufficiently broad as to bring out the local problems affecting the flow of capital into industry as we know them from practical day-to-day experience in our several local communities.

After assuming office, I made inquiry as to just what these hearings would cover, and learned that your committee intended to confine its investigation for the present, at least, to a small group of large houses, whose exclusive or principal business is the underwriting and original distribution of large national issues. It seemed to me that if this inquiry were confined to such limits that the public might erroneously assume that your inquiry into the affairs of 8 or 10 very large houses was a study of the investment-banking business as a whole.

¹ "Exhibits Nos. 1673 and 1679."

Actually, if confined to these limits, we feel that you would be studying but a single phase of our business; and, what is far more important, that in so doing you would be depriving yourself of an opportunity to accumulate a vast amount of additional information that would be extremely useful for your purposes in your study of this all-important subject of the flow of capital into industry.

After conferring with members of our board of governors, who approved of my making an effort to introduce testimony at this hearing, I wrote Senator O'Mahoney on November 17, requesting an opportunity to be heard. I asked the Senator if we might introduce testimony that would be given by dealers from various sections of the country.

Subsequently, in this connection, I called a special committee meeting which was held on December 5 and 6 at my home city of Detroit, at which were present some 15 representative members from widely scattered locations—from Wisconsin to Texas, and from North Carolina to the Pacific Northwest. I did not know at that time that your schedule of necessity had to be developed quite far ahead of the actual appearance of the witnesses, nor did I know until coming to Washington this week that it was necessary to submit our statements to you at least 30 days prior to the hearing so that you might have them for study.

It became apparent to me immediately that, willing as you were, you could not hear our people at this time. Fearing that this investment banking inquiry might be permanently adjourned on or about December 22, I felt it desirable to get some brief statement into the record that our position might be set forth in the hope that when your committee reconvenes you will recognize the importance of our request and hear the story of the local dealer in our business and what he thinks can be done to put idle men and machines to work.

This being an economic study, it seemed a pity to close the investment banking section of the inquiry without hearing from the hinterlands, for we honestly believe we can be helpful in making suggestions that will help to eliminate the lag, leak, and friction referred to in the President's letter to Senator O'Mahoney, dated May 16 of this year. Your committee has been both generous and gracious in waiving its rules and granting me an opportunity to make this brief statement. I am more than appreciative.

The President in the letter just referred to stated "that the dollars which American people save each year are not yet finding their way back into productive enterprise." There are more than 6,000 dealers in this business. They are situated from coast to coast and give employment to over 93,000 people. We believe that we are more closely connected with the investment banking process than any group in the country.

We believe that we have an intimate knowledge of the small investment buyer's problem and the problem of the small-business man, and if given an opportunity at a later date we would hope to give you important factual data coupled with suggestions as to what might be done toward the solution of our economic troubles. While we come from the smaller centers, nevertheless we believe our viewpoint has worth while social significance.

We are particularly anxious to get before you the problem of small and medium-sized business when it comes to financing its needs and

also the current attitudes of investors and potential investors in local communities. If given an opportunity to appear at a later date, these typical local dealers will be specific in their testimony. They will present case histories of local investors and businesses, and the way in which concerns in their own communities have been financed in the past and are now being financed or hindered in their financing.

Since our testimony will be aimed at presenting to you the situation which today confronts on the one hand the investor, potential or actual, and on the other hand, concerns which seek or might seek financing—it seems inevitable to me that references will be made to so-called deterrents, handicaps, and bottle necks.

Effort will no doubt be made to show that business conditions could improve if certain deterrents were removed. Those who testify will undoubtedly point out that our business is encountering difficulties, real or fancied, with the Securities Act of 1933, as amended. There are some real problems to be solved as to how to correct the act, so that businessmen—both large and small—may be more willing to borrow publicly and thus put idle dollars to work.

The question of private placement will also undoubtedly come up for discussion as will the question of banking-department regulations and limitations that these regulations impose upon local banks and the development of local business enterprises. The influence of the tax structure upon different kinds of security purchasers and its effect upon local industries may also be referred to. In a word, it will be our purpose to offer testimony based on our experience in our own communities which we hope will be helpful in solving the unemployment problem and, in that way, contribute a definite social service.

If it meets with your approval, we might also ask a professional economist to review testimony already before your committee, given in connection with factual data now in the record, since we are not wholly in accord with certain inferences that have been drawn from such data.

I trust that I have given you an indication of our intentions which will be adequate for your purposes, that the topics to be covered in the testimony which we hope to provide have been set forth with sufficient precision and that you will feel that this testimony will be useful in solving our common problem of restoring the economic mechanism to good working order.

The CHAIRMAN. Thank you, very much, Mr. Connely.

Mr. CONNELLY. I thank you and the committee very much.

The Chairman desires to call to the attention of all prospective witnesses here that on Monday we resume this study of A. T. & T. financing, and all witnesses who have been subpoenaed in this connection probably had better make their arrangements to be present. The committee then will stand in recess until 10:30 Monday morning.

(Whereupon, at 3:20 p. m., the hearing recessed until 10:30 a. m. on Monday morning, December 18, 1939.)

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

MONDAY, DECEMBER 18, 1939

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE.
Washington, D. C.

The committee met at 10:50 a. m., pursuant to adjournment on Friday, December 15, 1939, in the Caucus Room, Senate Office Building, Senator Joseph C. O'Mahoney presiding.

Present: Senators O'Mahoney (chairman), and King; Messrs. Henderson, Avildsen, and Brackett. Present also: Charles L. Kades, Treasury Department; Ganson Purcell, Securities and Exchange Commission; Clifton M. Miller, Department of Commerce; Peter R. Nehemkis, Jr., special counsel; David Ryshpan, financial analyst; W. S. Whitehead, security analyst; and Samuel M. Koenigsberg, associate attorney, Securities and Exchange Commission.

The CHAIRMAN. The committee will please come to order. Mr. Nehemkis, are you ready to proceed?

Mr. NEHEMKIS. I am, sir.

The CHAIRMAN. Commissioner Henderson will make a brief announcement with respect to the continuance of these hearings.

Mr. HENDERSON. The S. E. C. had hoped to conclude this week the presentation involving these three items related to investment banking, but finds that the committee and the witnesses would undoubtedly be unduly burdened, and we have suggested to the chairman and the executive secretary, and they have concurred, that we conclude Wednesday night and recess until the first week in January.

The CHAIRMAN. You mean, conclude this phase of it.

Mr. HENDERSON. Conclude the phase relating to the A. T. & T., J. P. Morgan & Co., and Morgan Stanley & Co., everything relating to those three items by Wednesday evening, if possible, and then pick up with other investment banking houses after the first of the year.

The CHAIRMAN. Well, that will mean that other witnesses who have not been called to testify with respect to any of these matters are free to absent themselves from the hearing if they so desire?

Mr. NEHEMKIS. That is correct, sir.

Mr. HENDERSON. During the hearings on Friday, there was developed by counsel a good deal of technical background, showing the origin and development of the Telephone group and of various percentage changes in the original terms group. It seems to me it would be very helpful to the members of the committee if, before resuming the hearings, counsel gave us a brief summary of the state of the record at the time we concluded on Friday afternoon.

The CHAIRMAN. May I interrupt there, to insert in the record a statement which has just been received from Dr. Albert Haring, professor of marketing of the School of Business of Indiana University, Bloomington, Ind.

When Dr. Haring testified before the committee at the price hearings on December 7, he was requested to submit certain information concerning the assets and liabilities of the Great Atlantic & Pacific Co. This material has now been furnished, and without objection, it will be printed in the record at the proper place. Now, Mr. Nehemkis.

(The material referred to was marked "Exhibit No. 1683" and appears in Hearings, Part 21, appendix, p. 11336.)

SUMMARY BY COUNSEL OF PREVIOUS TESTIMONY ON AMERICAN TELEPHONE
& TELEGRAPH CO. FINANCING

Mr. NEHEMKIS. May it please the committee, in accordance with Commissioner Henderson's request, may I briefly review the important developments, as we left on Friday?

On the historical development of the Telephone group, first, the members of the group in the issue of 1906 were as follows: Kidder, Peabody & Co., Baring Bros., Ltd., of London, J. P. Morgan & Co., J. S. Morgan & Co., of London, and Kuhn, Loeb & Co. There was added to the group in the year 1913 the First National Bank of New York and the National City Bank, and in 1916 there was added to the Telephone group the following bank and brokerage accounts: Lee, Higginson & Co., Harris, Forbes & Co.

This group remained intact until the year 1920. The percentage participations of the so-called proprietary group in Telephone financing are set forth in the committee's "Exhibit No. 1666."¹ The percentages of the so-called proprietary group remained fixed, beginning with the issue of December 11, 1916, and through the subsequent four issues of Telephone securities taken by the group. This is shown by five entries in the committee's "Exhibit No. 1666."

The second item I review for you is the conference of May 5th at "the library." The evidence shows, Mr. Chairman, that prior to the conference at "the library" of May 5, 1920, Mr. Whitney had prepared a memorandum for his senior partner, Mr. Davison, committee's "Exhibit No. 1679."² The evidence will show, Mr. Chairman, that on this aide memoire, Mr. Whitney prepared a list of abbreviated names of the group and certain percentage realignments. It appears that Mr. Davison took this memorandum with him to the conference at "the library." The final column of figures on the memoire bears the caption, "Finally agreed upon." It has been testified that was in the writing of Robert Winsor.

The evidence does not show in whose writing the last column of figures was. The caption, "Davison's suggestions," appearing on the first set of figures written by Mr. Whitney has been testified to as being in the handwriting of Robert Winsor. "Exhibit No. 1673"³ is

¹ Appendix, p. 12208.

² Appendix, p. 12214.

³ Appendix, p. 12211.

Mr. Robert Winsor's record of what was decided upon at the conference in "the library."

The conference at "the library," it would appear from the evidence, was made necessary by the following factors: First, the desire to introduce into the original-terms group two new houses, the Bankers Trust Co. and the Guaranty Co., and to increase the share in the original-terms group of Lee, Higginson and Harris, Forbes & Co. Second, the desire on the part of J. P. Morgan & Co. "to have a larger percentage of the original-group profits go to these four people."¹ Third, the pending financing program formulated by Mr. Walter Gifford required, according to Mr. Whitney's testimony, a realinement of the percentages with these two new people.

Now, the third item which I review for you—

The CHAIRMAN (interposing). Perhaps, Mr. Nehemkis, it might be proper to remark that there was some dispute with respect to the exact significance of the phrase, "proprietary interest." The witness wanted it understood—the witness, Mr. Whitney—that there was no legal significance—

Mr. NEHEMKIS (interposing). That's right.

The CHAIRMAN. Regardless of what the facts might be.

Mr. NEHEMKIS. The third item which I review for you, sir, is the result of the conference of May 5, 1920. It would appear that Mr. Whitney's proposal for percentage realinements did not prevail. The conferees, Messrs. Morgan, Davison, and Winsor agreed upon (1) a 70-30 division of the Telephone business, 70 percent going to the New York group and 30 percent to the New England proprietary interests; (2) that negotiations with the company were to be joint; (3) that future Telephone financing would include subsidiary companies as well as the parent company.

Such, Mr. Chairman, may it please the committee, is my understanding of the state of the record as we concluded on Friday. At this point, if it please the committee, we shall endeavor to ascertain what figures did finally prevail, and I should at this time desire to recall Mr. Whitney.

Mr. George Whitney, take the stand, please.

TESTIMONY OF GEORGE WHITNEY, J. P. MORGAN & CO., NEW YORK, N. Y.—Resumed

NEW ENGLAND AND BARING BROTHERS' PARTICIPATIONS PRIOR TO "LIBRARY AGREEMENT"

Mr. NEHEMKIS. Mr. Whitney, following the conference at "the library," as you have previously testified, there was a readjustment of $\frac{3}{4}$ percent in the percentage allocations which had been agreed upon on May 5th?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. Now, the next Telephone issue followed the adjusted figures. This was the 25 million Bell Telephone of Pennsylvania?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. Mr. Whitney, I show you a record sheet describing the \$25,000,000 Bell Telephone Co. offering of Pennsylvania, which

¹ Supra, p. 11880.

you were good enough to make available to us. I ask you to examine this record and tell me whether you recognize it as a true and correct copy?

Mr. WHITNEY. Yes, sir.

Mr. NEHEMKIS. The document is offered in evidence, Mr. Chairman.

The CHAIRMAN. Without objection, it may be received.

(The document referred to was marked "Exhibit No. 1684" and is included in the appendix on p. 12219.)

Mr. NEHEMKIS. Now, on Friday, Mr. Whitney, you testified, at the time of the May 5th conference at "the library," you did not know that Mr. Winsor had subparticipated the so-called New England proprietary interests. Do you recall that?

Mr. WHITNEY. Didn't know he had?

Mr. NEHEMKIS. Yes. Now, at the time of the Bell Telephone Co. offering in 1920, did you know that Mr. Winsor had subparticipated in New England proprietary interests?

Mr. WHITNEY. Mr. Nehemkis, we knew it was true in the Telephone business, as to the actual distribution by the subscribing syndicate of seven or eight or nine hundred people throughout the country that New England handled a portion of that, this percentage you speak of, roughly 30 percent or 29¾ percent, distributed through Winsor's own office. We handled everything outside of New England. If I were to say when I learned about his subparticipations on original terms, I would date my knowledge later than that, when we first learned about it, and very much later than that when we learned the detail of it. Do I make that clear?

Mr. NEHEMKIS. You knew it much later than the year 1920?

Mr. WHITNEY. We knew—of course, we knew of the selling arrangement that he had.

Mr. NEHEMKIS. Yes, you knew—

Mr. WHITNEY (interposing). Which is entirely a different thing from the original terms, but I would say that we didn't know, or that I didn't know, that he had any subparticipations on the original terms until substantially after this day.

Mr. NEHEMKIS. Well, now, isn't it a fact, Mr. Whitney, that even before the May 5 conference at "the library," you knew that Mr. Winsor had subparticipated the New England interests?

Mr. WHITNEY. On the original terms?

Mr. NEHEMKIS. Yes.

Mr. WHITNEY. I just said I don't think so.

Mr. NEHEMKIS. Well, now, Mr. Whitney, I recall—

Mr. WHITNEY (interposing). Of course we knew back in the Baring days.

Mr. NEHEMKIS. Yes. Well, now, I recall to you "Exhibit No. 1679," which you have testified to was in your own handwriting, and on that exhibit appear two figures, Kidder, Peabody, 15; New England, 9. If you did not know that Mr. Winsor had subparticipated the New England proprietary interest, on the basis of what data in your office could you have possibly arrived at the figures, 15 for Kidder, Peabody, and 9 for the New England subparticipation?

Mr. WHITNEY. Why, I testified on Friday that when I prepared this memorandum for Mr. Davison, it was for the reason that we believed that the rest of the country was entitled to a larger interest in the distribution of these securities. And I took these figures as an indication to Mr. Winsor of what we wanted to do, because you will notice the reduction from the figures finally agreed upon and those that I suggested to Mr. Davison are all in that one item. And whenever it came to consideration of Telephone financing, there was always this distinction made. It was not my province to discuss what the original terms were, but I felt, and the bond department felt, that we needed more of the original term profits. You read an excerpt¹ from the minutes this morning—to be given to these three large national distributors for the purposes of distribution. It was not at all a question of where the original profits went, except insofar as it affected the quality of the job of distribution which we could do for our clients, the Telephone Co.

Mr. NEHEMKIS. Mr. Whitney—

Mr. WHITNEY (interposing). Excuse me, may I just continue?

Mr. NEHEMKIS. Yes, sir; indeed. I am sorry.

Mr. WHITNEY. Of course I knew what was being done in New England, and I wanted to get from New England this 6 percent to be divided among these four houses, because they were national distributors. It was all for the purpose of distribution—my job and the bond department's job, in our office. It was that, and not the question of any policy involved.

Mr. NEHEMKIS. Mr. Whitney, I now show you "Exhibit No. 1671." I ask you to examine this exhibit.

(Witness examines exhibit.)

Mr. NEHEMKIS. Will you read the title, please, so the committee may have it before them?

Mr. WHITNEY. Well, may I—I can't identify this.

Mr. NEHEMKIS. That is in the record, already offered. Just do as I ask you, if you will.

Mr. WHITNEY. You asked me to read something.

Mr. NEHEMKIS. Read the title.

Mr. WHITNEY (reading from "Exhibit No. 1671"): "American Telephone Proprietary Interests."

Mr. NEHEMKIS. Now, will you—

Mr. WHITNEY. May I just say there, this did not come from our files.

Mr. NEHEMKIS. No one has said so.

Mr. WHITNEY. No; but perhaps there has been that inference. I testified, certainly, ad nauseam, that we never heard the term, "proprietary" interest.

Mr. NEHEMKIS. Just follow this; and will you do as I ask, Mr. Whitney? Turn to the column headed, "Convertible 4½'s of April 1913. Do you have it?"

Mr. WHITNEY. Right.

Mr. NEHEMKIS. Now read the names and the amounts of the first three firms under the New England group.

¹ Supra, p. 11893.

Mr. WHITNEY (reading from "Exhibit No. 1671"). "R. L. Day & Co., Estabrook & Co., Old Colony Trust Co." Well, it names Hayden, Stone & Co., F. S. Moseley & Co., Kidder, Peabody, Baring Bros. Ltd.

Mr. NEHEMKIS. Now, will you read the sum of the first entries, three figures?

Mr. WHITNEY. Nine.

Mr. NEHEMKIS. They total up to 9. Now, still glancing at this column, will you read the figures set opposite Peabody?

Mr. WHITNEY. Fifteen.

Mr. NEHEMKIS. Now, still at this same column, is not the balance of the 35 percent New England proprietary interest shown to have been made up of 11 percent, set against Baring Bros. & Co., Ltd., of London?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. Now, will you note, Mr. Whitney, that the divisions are the same in the next column, except that the Old Colony Trust Co.'s 4 percent interest was retained by Kidder, Peabody? Now, follow me, if you will, Mr. Whitney, to the next column, labeled "American Telephone Subsidiary Notes, August 1914." The figures are exactly the same in this column as the figures for the April 1913 issue. Now, turn with me, if you will, Mr. Whitney, to the next column, and you will note that the figures there are again the same except that Kidder, Peabody ceded to Hayden, Stone a one-ninth interest out of its 15 percent. But, if you are following me, Mr. Whitney, you will note that the figures 9, 15, and 11, remain intact. Now, turn, if you will, Mr. Whitney, to the next column, labeled "December 1916." The proportionate interest, you will note, remained the same. The participants give up proportionately 10 percent each in order to make up the 10 percent for Harris, Forbes and Lee, Higginson. Now, if you will, turn to the next column, and you will note—

Mr. WHITNEY (interposing). What was that last; Harris, Forbes; Lee, Higginson?

Mr. NEHEMKIS. The participants, I said, give up proportionately 10 percent each in order to make up the 10 percent for Harris, Forbes and Lee, Higginson.

Mr. WHITNEY. It doesn't say that here.

Mr. NEHEMKIS. Well, you follow the next column. In the next column, you will note that Baring Brothers, Limited, of London has disappeared and you will also note R. L. Day, Estabrook, the Old Colony Trust Co. have been restored to their old 9-percent interest. Now, Mr. Whitney, in your *aide memoire* for Mr. Davison, insofar as the New England interests were concerned, you were in reality proposing to distribute the Baring Brothers, Limited 9.9-percent interest, so that the "9" : your handwriting, in "Exhibit No. 1679,"¹ the *aide memoire*, is the proprietary interest of Day, Estabrook, and the Old Colony Trust Co. which you proposed to leave untouched and the "15," in your handwriting, in "Exhibit No. 1679," the *aide memoire*, is the old 15-percent interest of Kidder, Peabody in the New England proprietary group which you also proposed to leave untouched. So it appears that you were really not concerned with the ability of New England to distribute the minimum which it had always dis-

¹ Appendix, p. 12214.

tributed, because you left that untouched. It would appear, Mr. Whitney, that what you were really concerned about was whether New England should continue to have the share of the underwriting which under the New England agreement had gone to Baring Brothers of London?

MR. WHITNEY. Well, that is very interesting testimony.

MR. NEHEMKIS. You have no further comment to make on that?

MR. WHITNEY. I have just this. It is very brief. As far as our knowledge goes, your last estimate has got no relevancy. We did not know a thing about it. The 6 percent we were trying to reallocate was to go $1\frac{1}{2}$ percent to those four houses. And I repeat, definitely, and all your mathematical calculations notwithstanding, that is hindsight. We did not know the first single thing about this. There is not the slightest thing to show there was any agreement about—

MR. NEHEMKIS (interposing). We are not discussing that.

MR. WHITNEY. I don't want to get in an argument about your last statement, but I can tell you unequivocally that the fact that these figures look the same, has no bearing on our knowledge, and as a matter of fact, we did not take the 9 percent of Baring's.

MR. NEHEMKIS. 9.9 percent.

MR. WHITNEY. 9.9; we only asked to take 6.

MR. NEHEMKIS. But that is the amount you had to distribute. There is a question I would like to ask you, if I may. How was it possible for you to make all those calculations without the aid of a written record? Apparently, Robert Winsor couldn't do it.

MR. WHITNEY. We have written records in our syndicate files, and all these figures that you presented yesterday—perhaps it may not be clear to the committee—come from our records—all these percentages and businesses done. We have those records, but, as I said on Friday, Mr. Chairman, these are isolated transactions. There were no vested rights of any kind, either between the company, this group, ourselves, and Kidder, no vested rights between the various participants of the group. And this testimony and this exhibit, I hope it is quite clear, have nothing to do with our files. I was just asked to read certain writings on an exhibit that I never saw before until a couple of weeks ago when the copies were sent to us. And this calculation of Mr. Nehemkis is more or less—I don't doubt his accuracy, but we just didn't know about it. And these—my memoranda, my penciled memoranda,¹ to Mr. Davison were solely, strictly related to the distribution.

I wouldn't attempt to go into the details of the bond business, because that would take too long, but we believed that these four houses who had a large national distribution needed a bigger percentage on the original terms in order to insure their full cooperation in doing the job for the Telephone company that we had been asked to do. When I say "been asked to do," I wish to add that there was no commitment, there was no contract. When Winsor used the word "proprietary" terms, that was his business. It was not our feeling about it, and there was nothing to support it, and the calculation of Mr. Nehemkis—I don't doubt they all add up to that, except there were only 6, it was not 9.

MR. NEHEMKIS. Now, Mr. Whitney, how did you know when you were preparing the *aide memoire* for your senior partner, Mr. Davi-

¹ "Exhibit No. 1679."

son, to put after New England, as you did, the 9? How did you know that after K. P. you were to put 15? You must have known that the New England subparticipations of Mr. Winsor's group totaled up to 9?

Mr. WHITNEY. But they did not.

Mr. NEHEMKIS. You just read them for me from the exhibit¹ which I showed you, and you added 9. And then, for three columns I went with you and said, now, they are the same, and your answer was "Yes, Mr. Nehemkis, they are the same, and they total up to nine." I am asking if you could enlighten us how it was possible for you to tell Mr. Davison that New England represents nine, if you did not know what was on those sheets that you just examined?

Mr. WHITNEY. Well, I am sorry, Mr. Chairman, I am afraid I can't do any better than I have done, I think. I consider it a pure coincidence. Twenty years is a long time, but I am perfectly confident that I had no knowledge such as you infer I had, and that that memorandum, the fact that it leaves them with nine, was the sheerest coincidence.

Mr. NEHEMKIS. I accept your word for that, Mr. Whitney.

Mr. WHITNEY. May I ask a question of you? What is the point of this?

Mr. NEHEMKIS. Well, Mr. Whitney, that is not a proper question for a witness to ask.

Mr. WHITNEY. I withdraw it.

(Laughter.)

INFORMING INTERESTED PARTIES OF "LIBRARY AGREEMENT"

Mr. NEHEMKIS. To continue, if we may. Do you happen to know whether the terms of the understanding which was arrived at in the library, were transmitted to the company, the American Telephone & Telegraph Co.?

Mr. WHITNEY. I testified, I think, on Friday, that I don't remember (and I had most of the discussion with Gifford) that the percentages were given to them. They certainly were not given to them as something that had happened, but I have no doubt that during the course of the years, he may have acquired a pretty good understanding without the details. But the question of formation of the group, or who was in it, or the percentages, as far as I can testify to what another man knew, Mr. Gifford had no knowledge of them. He certainly did not have them from me.

Mr. NEHEMKIS. Now, do you know, Mr. Whitney, whether Mr. J. P. Morgan, or Mr. Henry P. Davison discussed the revision of interests with the New York group, prior to the meeting at "the library"?

Mr. WHITNEY. I couldn't answer that, except insofar as I told you the other day, that Mr. Alexander and I asked Mr. Morgan if he had any recollection of this meeting and of the substance of it. I think I said he told us he did not even remember there was a meeting.

Mr. NEHEMKIS. But of your own recollection and knowledge, you cannot tell me now whether either Mr. Davison or Mr. Morgan discussed the revision, prior to the time they went into "the library"?

¹ "Exhibit No. 1671."

Mr. WHITNEY. Of my own knowledge, of course, I wouldn't pretend to know what two other gentlemen did 20 years ago but I would be willing to say that I am perfectly confident they did not.

Mr. NEHEMKIS. Repeat that.

Mr. WHITNEY. I am perfectly confident they did not.

Mr. NEHEMKIS. They did not?

Mr. WHITNEY. No, but that must be a surmise, it can't be a fact.

Mr. NEHEMKIS. Now, do you know, Mr. Whitney, when and how the terms of the agreement arrived at, at "the library," were transmitted to the First National Bank of New York?

Mr. WHITNEY. I know of no reason to believe they were.

Mr. NEHEMKIS. Do you happen to know or recall how and when the terms of the agreement arrived at in "the library" were transmitted to the National City Bank?

Mr. WHITNEY. I have no reason to believe they were.

Mr. NEHEMKIS. Would your answer be the same for Kuhn, Loeb & Co.?

Mr. WHITNEY. It wouldn't be quite the same, because most of the discussions there were with Kidder, Peabody, and I would have no knowledge of that.

Mr. NEHEMKIS. I'm sorry, I don't follow you. I asked if your answer was the same with reference to Kuhn, Loeb & Co.

Mr. WHITNEY. I said—

Mr. NEHEMKIS. And your answer was that it was discussed with Kidder, Peabody?

Mr. WHITNEY. I said my answer would not be the same, because, if you remember, I testified on Friday¹ that in 1906 Kuhn, Loeb were approached by Mr. Winsor, of Kidder, Peabody & Co., and that generally speaking, the discussion on Telephone matters had been between Mr. Winsor, of Kidder, Peabody, and Kuhn, Loeb & Co. Therefore, my answer would not be the same.

Mr. NEHEMKIS. I misunderstood you. Would your answer be the same as in the earlier answer with reference to the communication or possible communication to Harris, Forbes & Co.?

Mr. WHITNEY. Yes; it would with all the others.

Mr. NEHEMKIS. Guaranty Trust and Bankers Trust?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. So that the most powerful and important banking houses in the United States, with a 60-percent interest in business ultimately amounting to \$832,000,000, were not consulted concerning this redivision of their interest in the Telephone business, according to your own testimony?

Mr. WHITNEY. Now, Mr. Nehemkis, if I may, there are two or three things I would like to say. I did not say that they weren't told about it. You asked me the question, if I knew how the news had been transmitted to them.

The second thing is that you again draw in the question that this conference was dividing up \$832,000,000 worth of business. I want to reiterate again—I will have to do it as often as it comes up—that each transaction stood absolutely on its own legs. We were not dividing up anything.

The third question was that it was not a matter of consultation. I have said that they had no vested rights in this thing. Now, if you

¹ Supra, p. 11848.

go to the end, I don't mean to say that they didn't know, when the next transaction came along, what their percentages were. That is obvious; they did.

Mr. NEHEMKIS. That is something else, again, though, Mr. Whitney.

Mr. WHITNEY. Right. But your question was, did I know how they were advised of this meeting at the library, and I said that I had no reason to believe they were advised. It is quite a different question, that sometime later, when there was a piece of business pending, they were not told what percentages they would have. But I want the record very clear, Mr. Chairman, if I may, that this \$832,000,000—

That was on what date?

Mr. NEHEMKIS. In 1933, just before—

Mr. WHITNEY (interposing). '32 or '30.

Mr. NEHEMKIS. 1930 was the last piece.

Mr. WHITNEY. That was a completely unknown figure. There was no contemplation of such financing. Obviously, it would take over 10 years. Secondly, this interest in this financing was not a continuing interest in any sense. Each transaction was a matter of negotiation with the Telephone company. There was not a word, either legal or moral, that would call upon them to continue to do business with this particular group unless we had done a good job. We were employed by the Telephone company to do a job of an expert along the lines of the program that Mr. Gifford had developed, and each transaction was separate and individual. These percentages were determined in what we thought was the best way. We, J. P. Morgan & Co., thought that was the best way to do a good job.

Mr. NEHEMKIS. Mr. Whitney, were there discussions among the partners of J. P. Morgan & Co., either individually or at partners' conferences, with respect to the terms of the understanding reached at "the library"?

Mr. WHITNEY. Oh, undoubtedly, because everything was discussed there.

Mr. NEHEMKIS. Discussed individually, or at partners' conferences?

Mr. WHITNEY. Both.

Mr. NEHEMKIS. Is it your practice to have full discussion among the partners of all understandings or arrangements that may have been reached by individual partners?

Mr. WHITNEY. Oh, that statement is too inclusive. Certainly, any questions of policies, or any question of detail, would be reported if they were significant by whatever partners had it in charge. In this case I should assume Mr. Davison would have reported the matter. I don't remember it, but I assume he would, because at our firm meetings we discuss everything.

Mr. NEHEMKIS. Were you present at the partners' meeting when Mr. Davison reported it to the others?

Mr. WHITNEY. I have just said, Mr. Nehemkis, that I did not remember his actually doing it in any way. I may or may not have been there. But I said I am sure he did.

READJUSTMENT OF KUHN, LOEB & CO.'S INTEREST SUBSEQUENT TO
"LIBRARY AGREEMENT"

Mr. NEHEMKIS. Now, it would appear, Mr. Whitney, that at least one of the New York group was dissatisfied with the realignment which had been settled upon at "the library." And I am going to read to you a letter previously identified as "Exhibit No. 1675," from the late Dwight W. Morrow to Mr. Winsor. The letter is dated August 17, 1920 [reading from "Exhibit No. 1675"]:

You were good enough to suggest that I make the adjustment of $\frac{3}{4}$ of 1% in the telephone allotment which is to be given up by some one to furnish another $\frac{3}{4}$ of 1% to Kuhn Loeb & Co.

I want you to note the next sentence, Mr. Whitney.

I find almost insurmountable difficulties in taking this out of any of our New York associates. I am also handicapped—

And I ask you to pay strict attention to the following phrase, Mr. Whitney—

I am also handicapped by not knowing the considerations which affected the original division of 70 per cent to New York and 30 per cent to Boston.

If you have no objection, I will tell Kuhn, Loeb & Co. that they are to have a 10 $\frac{3}{4}$ % interest in the group and we can leave for adjustment between Mr. Davison and yourself whether that is to come from J. P. Morgan & Co. or from Kidder, Peabody & Co., or, if from both, in what proportions. Mr. Davison will be home in about two weeks.

Now, the committee will recall that in the exhibit which Mr. Whitney recently examined, and which is now in the record [referring to "Exhibit No. 1671"].

Mr. WHITNEY. From Kidder, Peabody.

Mr. NEHEMKIS. And from the files of the old Kidder, Peabody firm, if you want me to be precise, Mr. Whitney. There appears at the bottom of that exhibit the following notation. "Compiled for Robert Winsor, August 16, 1920." That is one day before Mr. Dwight Morrow had occasion to write to Mr. Winsor.

From Mr. Morrow's letter it would appear, Mr. Whitney, that by August 16, Mr. Davison had already agreed with Mr. Winsor that the interest allotted Kuhn, Loeb & Co. at the library was to be increased from 10 percent to 10 $\frac{3}{4}$ percent. The only problem was to find someone who was willing to have his interest decreased by the required amount. And as Mr. Davison says in a letter which I have just read—

Mr. WHITNEY (interposing). Mr. Morrow.

Mr. NEHEMKIS. Mr. Morrow, I beg your pardon. [Reading from "Exhibit No. 1675":]

I find insurmountable difficulties in taking this out of any of our New York associates—

And Mr. Morrow further says:

I am also handicapped by not knowing the considerations which affected the original division of 70 percent to New York and 30 percent to Boston.

So that even Mr. Dwight Morrow, Mr. Whitney, was not fully informed by the partners, J. P. Morgan and Henry P. Davison, of all

the considerations surrounding this allocation of the so-called proprietary interests.

Mr. WHITNEY. What was that last?

Mr. NEHEMKIS. I will have to ask the reporter to read that. (The previous question was read.)

Mr. WHITNEY. Did you ask me a question?

Mr. NEHEMKIS. Well, I think it was a question.

Mr. WHITNEY. I thought so, too, but I just wanted to be sure. Mr. Nehemkis, the question, I think was whether Mr. Morrow did know, or did not know. Well, he obviously didn't know all the details, because at the meetings referred to a minute ago we didn't have a stenographic report of conferences. What we probably told him was that that had been the agreement reached with Mr. Winsor. I should say from that letter that it is a perfectly clear indication that the other members of the group didn't have very much to say about what the percentages were that were taken away from them, because obviously Mr. Davison had all the talks with Mr. Winsor. He did not know. Mr. Morrow didn't know what the considerations were that led to that agreement. Why should he? How could he possibly have? Secondly, Mr. Morrow had very little to do with Telephone business, and here you get a letter dated August 17, when there were generally only two of us left in the office (everybody else was away if they possibly could be) and he says, perfectly naturally, that he is going to leave it with Mr. Davison, who had the original talk with Mr. Winsor, to settle later. He says, "I find almost insurmountable difficulties in getting this out of any of our New York associates." I would guess that those of us charged with distribution, again having been disappointed in the results of the conference in May, raised a howl when it was suggested that any more should be taken away.

Mr. NEHEMKIS. But you had better note quickly, so that you may correct yourself, Mr. Whitney, that this letter refers to underwriting.

Mr. WHITNEY. They are absolutely locked up together.

Mr. NEHEMKIS. You can't separate them, Mr. Whitney?

Mr. WHITNEY. Underwriting and distribution are two factors of that group; underwriting the financial responsibility and the distribution. And that is all a part of the whole.

Mr. HENDERSON. Could I ask a question?

Mr. NEHEMKIS. Yes, sir.

Mr. HENDERSON. Do you remember why K. L. wanted another $\frac{3}{4}$ percent?

Mr. WHITNEY. No, sir.

Mr. HENDERSON. It stands out like a sore thumb there, and evidently there was a "helluva lot" of going back and forth to get that $\frac{3}{4}$ percent.

Mr. WHITNEY. It sounds a little like Oliver Twist, doesn't it? [Laughter.]

Mr. HENDERSON. It seems to me it must have been something very valuable there.

Mr. WHITNEY. I just don't remember a thing about it. I had clearly nothing to do with all this. I don't know anything about it except that I do know that at the first transaction that we had for the Telephone company after the May conference, these were the percentages that prevailed.

Mr. NEHEMKIS. I was very much interested, Mr. Whitney, in one word that Mr. Morrow used. Now, Mr. Morrow was a very distinguished lawyer, and he used, in referring to this agreement or understanding arrived at at "the library," a word that has always great significance for lawyers, "considerations."

Mr. WHITNEY. I am not a lawyer.

Mr. NEHEMKIS. So that, apparently, he——

Mr. WHITNEY. I use it sometimes myself.

Mr. NEHEMKIS. So apparently Mr. Morrow felt that there was something about this agreement that was a little bit more than a casual piece of paper.

Mr. WHITNEY. Oh, but now, Mr. Nehemkis! I should hate to have you or the committee get the impression that I think it is a casual piece of paper. But obviously Mr. Morrow—there couldn't have been some consideration which has the technical meaning that you say, "value received," or whatever it was, or Mr. Davison would have obtained that extra 6 percent that we wanted for nation-wide distribution. You can read the purely technical legal phraseology into it, but it makes sense to me, a layman, without that construction.

Mr. NEHEMKIS. Now, with the return of Mr. Davison from vacation, an agreement was arrived at whereby New England was to provide $\frac{1}{4}$ and New York $\frac{1}{2}$ in order to make up the $\frac{3}{4}$ percent required for Kuhn, Loeb. Now, I read you a letter written September 28, 1920, from Mr. Dwight W. Morrow to Robert Winsor, on the stationery of J. P. Morgan & Co. [reading from "Exhibit No. 1677"]:

Referring to my letter of August 17, this is to confirm our oral arrangement that the $\frac{3}{4}$ of 1% in the telephone allotment which is to be given up to Kuhn Loeb & Co. one-half is to come out of the New York members of the group and one-quarter out of the Boston members.

Mr. NEHEMKIS. Now I read you another dated October 1, 1920, from Robert Winsor to Dwight W. Morrow, Esq., addressed to J. P. Morgan & Co., New York, N. Y. [reading from "Exhibit No. 1678"]:

I have your letter of September 28th, and confirm the arrangement as to the division of the additional Telephone allotment to be given up to Kuhn, Loeb & Co. * * *

Mr. NEHEMKIS. I should like at this time, Mr. Chairman, to ask that Mr. Whitney be temporarily dismissed, and call another witness.

The CHAIRMAN. That will be quite agreeable.

Mr. NEHEMKIS. I call to the stand Mr. Leonhard Keyes.

The CHAIRMAN. Do you solemnly swear that your testimony in this proceeding which you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. KEYES. I do.

TESTIMONY OF LEONHARD A. KEYES, GENERAL MANAGER, J. P.
MORGAN & CO., NEW YORK, N. Y.

AVAILABILITY OF RECORDS OF J. P. MORGAN & CO., TO THE COMMITTEE

Mr. NEHEMKIS. Will you state your name——

The CHAIRMAN (interposing). May I interrupt, Mr. Nehemkis? On this "Exhibit No. 1678" I note certain handwriting in the margin. Is that a part of the exhibit?

Mr. NEHEMKIS. It is a part of the exhibit, but I have not commented upon it because I do not know what it means.

Will you state your full name, Mr. Keyes?

Mr. KEYES. Leonhard A. Keyes.

Mr. NEHEMKIS. And your residence?

Mr. KEYES. Ninety-one Durand Road, Maplewood, N. J.

Mr. NEHEMKIS. Mr. Keyes, are you general manager for the firm of J. P. Morgan & Co.?

Mr. KEYES. I am.

Mr. NEHEMKIS. And how long have you held that position?

Mr. KEYES. About 6 or 7 years.

Mr. NEHEMKIS. And prior to that period, were you likewise employed by the firm of J. P. Morgan?

Mr. KEYES. I was.

Mr. NEHEMKIS. What were your duties prior to becoming general manager?

Mr. KEYES. Chief clerk.

Mr. NEHEMKIS. How long were you chief clerk?

Mr. KEYES. From December 1913 to 1932.

Mr. NEHEMKIS. At which time you became general manager?

Mr. KEYES. Right.

Mr. NEHEMKIS. Now what are your duties as general manager for the house of J. P. Morgan & Co.?

Mr. KEYES. Supervision and management of the office.

Mr. NEHEMKIS. What does that mean, in a little bit more detail?

Mr. KEYES. In charge of all the books and records.

Mr. NEHEMKIS. In charge of all the books and records?

Mr. KEYES. Right.

Mr. NEHEMKIS. That means the files?

Mr. KEYES. Right.

Mr. NEHEMKIS. When papers come in, presumably after they have been read by the partners and initialed, are they sent to you?

Mr. KEYES. Well, they are sent to the files, they don't all come to me personally.

Mr. NEHEMKIS. But the general supervision of that department of the house known as the files, that comes under your jurisdiction?

Mr. KEYES. It does.

Mr. NEHEMKIS. Now, Mr. Keyes, on Friday Mr. Whitney testified before the committee as follows. I am going to read from page 156 of the transcript:¹

I can't testify definitely, but I think it is a perfectly fair assumption that this paper——

And Mr. Whitney was referring to this paper [exhibiting paper], Mr. Keyes——

¹ Supra, p. 11884.

The CHAIRMAN (interposing). What is that paper?

Mr. NEHEMKIS (reading):

I can't testify definitely, but I think it is a perfectly fair assumption that this paper was brought back by Mr.——

The CHAIRMAN. Mr. Nehemkis.

Mr. NEHEMKIS (interposing):

by Mr. Davison.

The CHAIRMAN. Please identify the paper, the exhibit number.

Mr. NEHEMKIS. I'm sorry, I don't recall this memorandum by the exhibit number. We have been referring to it here as Mr. Whitney's *aide memoire*, prepared for Mr. Davison.

The CHAIRMAN. "Exhibit No. 1679," being the list of percentages showing Mr. Davison's suggestions and those finally agreed upon.

Mr. NEHEMKIS. That is correct, sir, thank you. I had better repeat the statement:

I can't testify definitely, but I think it is a perfectly fair assumption that this paper was brought back by Mr. Davison and shown me, that we made the record of what the agreement was for further reference, and that he then sent the original paper to Mr. Winsor as indicated, he having it on the 12th of May.

Now, Mr. Keyes, will you be good enough to explain the mechanics by which the record of an agreement to which Mr. Whitney referred in his testimony, and which I have just read to you, is filed for future reference?

Mr. KEYES. The agreement itself would be filed for future reference.

Mr. NEHEMKIS. Now, what happened to the record to which Mr. Whitney referred in his testimony, and which you have just said was filed for future reference?

Mr. KEYES. Well, I don't consider this an agreement.

Mr. NEHEMKIS. Well, what happens to that piece of paper which was filed?

Mr. KEYES. We have no record of it. It was not filed, it was not in our files. We have no trace of it.

Mr. ALEXANDER. Didn't you ask Mr. Whitney the same question, and didn't he testify about that on Friday?

Mr. NEHEMKIS. That may well be. I am now calling the person directly in charge of such matters, and I think it is perfectly appropriate for me to ask that person the same question.

Now is there any record available?

Mr. HENDERSON. Just a minute. Do you have a question as to the appropriateness of it, Mr. Alexander?

Mr. ALEXANDER. I just want to call attention to the fact that Mr. Whitney had testified about the same question and had given some explanation or possible explanation.

Mr. HENDERSON. It was a possible explanation of how he thought it might have been handled.

Mr. ALEXANDER: That is it; I wanted to make mention of that.

Mr. NEHEMKIS. Mr. Keyes, I show you now a copy of an *aide memoire*, since we are using that term, *re* American Telephone & Telegraph Co. financing, addressed to Henry C. Alexander, Esq.,

dated Washington, D. C., November 15, 1939, prepared by me. I ask you to examine this copy, which is already in evidence, and tell me whether you have ever seen it before?

Mr. KEYES. I have.

Mr. NEHEMKIS. Will you read the last paragraph, please?

Mr. KEYES [reading from "Exhibit No. 1661-1"]:

Will you be good enough to make available to Mr. W. S. Whitehead, any memoranda, letters or other documents which bear upon the foregoing questions?

Mr. NEHEMKIS. Is it not a fact, Mr. Keyes, that it is an unwritten law of the House of Morgan that partners' files are never destroyed?

Mr. KEYES. I don't know that we have any unwritten law, or written law.

Mr. NEHEMKIS. You have no laws?

Mr. KEYES. Maybe not under that subject.

Mr. NEHEMKIS. Haven't you so indicated that partners' files are never destroyed?

Mr. KEYES. No, sir.

Mr. NEHEMKIS. Now, Mr. Keyes, I show you four letters¹ in evidence from Mr. Dwight W. Morrow to Mr. Winsor, from Robert Winsor to Mr. Morrow. I ask you to examine these letters, if you will?

(Witness examines documents.)

Mr. NEHEMKIS. Have you examined them?

Mr. KEYES. I have.

Mr. NEHEMKIS. I ask you, Mr. Keyes, why these letters were not made available to a duly authorized representative of this committee in response to my request?

Mr. KEYES. Mr. Nehemkis, I know very positively that two of these were made available to members of your committee.

Mr. NEHEMKIS. These letters were identified as coming from the old files of Kidder, Peabody.

Mr. KEYES. Well, I will correct that. A carbon copy of that letter² was made available to members of the committee. This is the original. We didn't have that.

Mr. NEHEMKIS. That's right.

Mr. KEYES. It is not in our files nor do we have it.

Mr. HENDERSON. What is the date of that letter?

Mr. KEYES. The date of that letter is September 28, 1920. Nor do we have—

Mr. HENDERSON (interposing). From whom to whom?

Mr. KEYES. From Senator Morrow—pardon me, Mr. Morrow—to Robert Winsor, of Kidder, Peabody. He was not Senator at that time.

Mr. NEHEMKIS. And you say that letter was made available to us?

Mr. KEYES. I know that that letter is in one of our folders that we made available to the examining officers of your committee.

Mr. NEHEMKIS. Mr. Chairman, may I have an off-the-record discussion for a minute?

The CHAIRMAN. Surely.

(Off-the-record discussion.)

¹ "Exhibits Nos. 1675, 1676, 1677, and 1678."

² "Exhibit No. 1677."

Mr. NEHEMKIS. May we proceed? There were four letters shown you, Mr. Keyes. I want you carefully to tell me which ones, again, you allege were furnished to representatives of the committee?

Mr. KEYES. Mr. Nehemkis, may I refresh my memory on a summary of each bond issue that we gave to members of your committee, and I would like to say that the summary—about this time, on one of those bond issues, I don't recall which—

The CHAIRMAN (interposing). Will you please hand the witness the summary?

Mr. NEHEMKIS. Mr. Alexander has it right before him.

Mr. KEYES. One of these letters refers to the Pennsylvania issue.

Mr. NEHEMKIS. That is correct.

Mr. KEYES. I don't recall that particular letter.

Mr. NEHEMKIS. You don't? Just a moment. So that—this is very crucial, Mr. Keyes, you will appreciate. I want to follow you with the minutest care. You say you don't recall that particular letter?

Mr. KEYES. I don't recall now.

Mr. NEHEMKIS. What does that mean?

Mr. KEYES. That is, I have no recollection.

Mr. NEHEMKIS. Oh, you have no recollection?

Mr. KEYES. Of seeing that particular letter.

Mr. HENDERSON. Which one is that?

Mr. KEYES. That one is the one from Mr. Robert Winsor to Mr. Dwight Morrow, of October 1, 1920.

The CHAIRMAN. Read the number on the back.

Mr. NEHEMKIS. These are already in, but this is a set I am working with, Mr. Chairman.

The CHAIRMAN. I beg your pardon.

Mr. KEYES. And this letter¹ contains a statement saying that "I am most thankful that things went along all right on the Pennsylvania issue." The Pennsylvania issue is undoubtedly the issue of the Bell Telephone Co., brought out in September.

Mr. NEHEMKIS. That is perfectly correct.

Mr. KEYES. In 1920.

Mr. NEHEMKIS. But we are not discussing that, Mr. Keyes.

Mr. KEYES. No; but these matters relate to that, and they are in a folder of the Bell Telephone Co.

Mr. NEHEMKIS. Well, where are they? Why can't they be given to us?

Mr. KEYES. They were—you should have made copies of them. They were included in that folder of contracts under the Bell Telephone Co. and which you had—it had all our correspondence with the First National Bank, with Kuhn, Loeb & Co., with all these companies, and that letter, I am quite sure, is in that folder, because that related to 10¾ percent that Kuhn, Loeb & Co. had; and that agrees with this memo.

Mr. NEHEMKIS. What about the remaining letters?

Mr. KEYES. Well, those three, I think, are in that folder, and possibly that fourth is in there, but I don't recall that now.

Mr. NEHEMKIS. So you now think that those letters are in your files?

¹ "Exhibit No. 1678,"

Mr. KEYES. Oh, I think so, but I would like an opportunity to again look it up.

Mr. NEHEMKIS. Should Mr. Keyes, sir, be given that opportunity?

Mr. HENDERSON. I think so.

Mr. NEHEMKIS. And then advise the committee?

The CHAIRMAN. Certainly that may be given. You may have that opportunity, if it is desired.

Mr. HENDERSON. You think that these four letters, that is, the originals from Mr. Winsor to Dwight Morrow, and the carbons from Dwight Morrow to Mr. Winsor, are in the Pennsylvania Telephone file?

Mr. KEYES. I think so, and I think that—the date of that issue, the Pennsylvania issue, was September 29, 1920, and that ran until the syndicate—until December 1, 1920—and these letters relate to the fixing of percentages of that issue.

Mr. HENDERSON. All right. Then it is your impression that you did give those, in giving the Pennsylvania Telephone—

Mr. KEYES (interposing). We gave our entire folder. We made available the entire, the full folder, to your examiners at the time they called, as we did on all of those, but you didn't make copies. I am not sure that you took any copies on that, of those that we had the summaries written for.

Mr. NEHEMKIS. I have no further questions of the witness, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Keyes.

Mr. HENDERSON. May I ask something? When Mr. Whitney comes back, I will ask him the same thing. Now, have you read Mr. Whitney's testimony as to what is likely to have happened to the *aide memoire*?

Mr. KEYES. I have read Mr. Whitney's testimony; yes, sir.

Mr. HENDERSON. And I think he said, or he indicated, that probably they made the notation in the syndicate department, and it was then sent to Kidder, Peabody. Wasn't that it, Mr. Whitney?

Mr. WHITNEY. That is what I said, substantially.

Mr. HENDERSON. Well, have you examined your syndicate records since that time?

Mr. KEYES. Yes, sir.

Mr. HENDERSON. And you find no copy either of the "library agreement"¹ or of the *aide memoire*?²

Mr. KEYES. No, sir.

Mr. HENDERSON. Well, do you find any document that was constructed from them to show what the final understanding was?

Mr. KEYES. No; no document, except that each issue was an understanding by itself, and when you come into this next issue, that was issued after May or in September 1920, that is what we would say was the only—

Mr. HENDERSON (interposing). Yes; but you mean you may have kept something up until that time?

Mr. KEYES. No; I would say not; no.

Mr. HENDERSON. Your impression then would be that there never was any record after, say, May 12, of either the May 5 conference—

¹ "Exhibit No. 1673."

² "Exhibit No. 1679."

Mr. KEYES (interposing). Yes.

Mr. HENDERSON. Or of the May 6, I believe it was, understanding that Davison and Winsor arrived at?

Mr. KEYES. That is right, sir.

Mr. HENDERSON. Well, is that customary in your house, not to keep a record of that kind?

Mr. KEYES. Mr. Henderson, it wasn't that we did not keep a record of it. If there was a record to be kept, we would have kept it. We have found nothing indicating the execution of any contracts such as described by you.

Mr. HENDERSON. Just a minute. Mr. Chairman, I suggest that Mr. Whitehead, our S. E. C. field man, go back to Mr. Keyes at the appropriate time, and look over the records on the Bell Telephone, on these. I think that is the appropriate thing to do.

Mr. NEHEMKIS. That is all, Mr. Keyes. Thank you very much for having come down this morning.

Mr. Whitney, recalled, please.

TESTIMONY OF GEORGE WHITNEY, J. P. MORGAN & CO., NEW YORK, N. Y.—Resumed

PERCENTAGE PARTICIPATIONS SUBSEQUENT TO "LIBRARY AGREEMENT"

Mr. NEHEMKIS. Shall I wait until Mr. Alexander returns?

Mr. WHITNEY. No.

Mr. NEHEMKIS. By comparing the original allotments, Mr. Whitney, with the interests of the participants in the Pennsylvania Bell Telephone issue of September 27, 1920, it appears that Kidder, Peabody yielded the one-quarter ceded by Boston, and the one-half which was to come from New York came out of the interest of Bankers Trust and Guaranty Trust, the two new members of the group; is that correct, sir?

Mr. WHITNEY. Yes. Mathematically, if you predicate your calculations on the May 5 memo,¹ the facts are very simple, that in the Bell Telephone issue, Kidder, Peabody had $29\frac{3}{4}$ and the Guaranty and Bankers had $4\frac{3}{4}$, respectively. If I were to explain this myself, I would say that it merely showed that was the final alinement at that time, for that particular issue, and it was what our records show, Mr. Henderson, because we are only interested in the records and not in the arguments that led up to them.

Mr. NEHEMKIS. I show you, Mr. Whitney, a copy of a letter which purports to be written on the stationery of J. P. Morgan & Co., dated September 29, 1920, addressed to Kuhn, Loeb & Co., and a carbon copy of a reply from Messrs. Kuhn, Loeb & Co. to J. P. Morgan & Co. I ask you to examine these two papers and tell me if you recognize them as being true and correct copies of material in your files?

Mr. WHITNEY. Well, of course, these couldn't come from our files, because this original must have come from Kuhn, Loeb.

Mr. NEHEMKIS. That wasn't my question, Mr. Whitney. You have counterparts of those in your files; the letter to Kuhn, Loeb is written by Mr. Anderson.

Mr. WHITNEY. Certainly.

Mr. NEHEMKIS. You identify the—

¹ "Exhibit No. 1673."

Mr. WHITNEY. I identify them as a photostatic copy of a letter we wrote, and a copy of the answer by Kuhn, Loeb & Co.

Mr. NEHEMKIS. I offer in evidence the two letters identified by the witness, Mr. Chairman.

(The letters referred to were marked "Exhibits Nos. 1685-1 and 1685-2" and are included in the appendix on pp. 12219 and 12220.)

Mr. NEHEMKIS. I ask you to note, sir, a notation which appears on the bottom of the letter of September 29,¹ which reads, "\$2,687,500 equals 10¾ per cent." Before I hand you this, Mr. Whitney, it is a fair assumption, is it not, that when this letter was sent out by Mr. Arthur Anderson, he didn't write that?

Mr. WHITNEY. Certainly not.

May the record show, Mr. Chairman, that I didn't identify any pencil notation? I identified the original as having come from us.

The CHAIRMAN. The record will so show.

Mr. NEHEMKIS. Now the significance of that notation, Mr. Chairman, is that Kuhn, Loeb was very anxious to know whether the amount given to them by J. P. Morgan & Co. equaled 10¾ percent. Obviously, the partner who got that letter made a quick mental notation and wrote down that two million-and-odd dollars equals 10¾ percent. He knew that the agreement had been kept.

Mr. WHITNEY. He was checking the correctness of the figures.

The CHAIRMAN. The \$2,687,500 which appears in handwriting on the bottom of the letter, those are the figures mentioned in the third paragraph of the letter which says [reading from "Exhibit No. 1685-1"]:

Your interest in the purchase on original terms is \$2,687,500.

Mr. NEHEMKIS. Yes. As Mr. Whitney observed in an aside, they were checking up to make sure it was right.

Mr. Whitney, in the Bell Telephone Co. issue of \$25,000,000 7's offered on September 1920, the first issue to be floated under the terms of the new arrangement, can you tell me what the interests were of the participants?

Mr. WHITNEY. Do I understand your question correctly—you put in some aside about the first under the new arrangement; you mean the first since the Guaranty, the Bankers—the original terms—

Mr. NEHEMKIS (interposing). The first after the understanding reached in "the library" on May 5, 1920.

Mr. WHITNEY. That is chronologically correct, and it also is more correct to say the first piece of business done for the Telephone Co. or its subsidiaries after the Guaranty Trust Co. and the Bankers Trust Co. were included in the original group.

Mr. NEHEMKIS. Well, now, we have both bits of information in the record. Will you see if you can give me the names of the participants and the percentage amounts?

Mr. WHITNEY. Do you want me to just read it?

Mr. NEHEMKIS. Yes.

Mr. WHITNEY. I can almost do it by heart.

Mr. NEHEMKIS. Well, then, do it either way.

Mr. WHITNEY. Kuhn, Loeb & Co., 10¾; Kidder, Peabody, 29¾; Lee, Higginson, 5; Harris, Forbes, 5; First National Bank, 10; Na-

¹ "Exhibit No. 1685-1."

tional City Co., 10; Guaranty Trust Co., $4\frac{3}{4}$; Bankers Trust Co., $4\frac{3}{4}$; J. P. Morgan & Co., 20.¹

Mr. NEHEMKIS. Now, Mr. Whitney, I show you a cover letter, a letter of transmittal, from your firm, together with 14 syndicate abstracts. I ask you to examine these and tell me whether you recognize them as being true and correct copies and whether this be in fact a letter of transmittal from your firm?

Mr. WHITNEY. I am sure, but may I say here that that list is incomplete? We have subsequently turned up two very small extensions.²

Mr. NEHEMKIS. I have those. But I don't want the record to have what you just said, Mr. Whitney, that it is incomplete. I asked a very specific question.

Mr. WHITNEY. The answer is "yes."

Mr. NEHEMKIS. All right.

Mr. WHITNEY. The only reason I mentioned it at all, Mr. Nehemkis, is that the other day, I think in a hurry, you didn't put in a correct list.

Mr. NEHEMKIS. I have those.

Mr. WHITNEY. You said you were going to put those in and I didn't see them.

Mr. NEHEMKIS. In due course, Mr. Whitney, we will come to them.

Mr. Chairman, may it please the committee, I now offer in evidence the documents identified by the witness.

(The documents referred to were marked "Exhibits Nos. 1686-1 and 1686-2" and are included in the appendix on pp. 12220 and 12221.)

Mr. NEHEMKIS. Mr. Whitney, I have before me a table entitled, "Percentage participations in issues of American Telephone & Telegraph Co. and associated companies, headed by J. P. Morgan & Co., September 1920-January 1930."³ The information upon which this table is predicated is based upon the syndicate abstract sheets which you just identified as having been furnished to us. Do we have a copy which Mr. Whitney could look at?

Mr. Whitney, you will note that under J. P. Morgan & Co., beginning with the year 1920, the percentage participation for your house is 20, and thereafter, until the last issue, it continues to be 20 with no changes; and for the First National Bank, you will notice in 1920, after the "library conference," the participation of the First National was 10 percent and thereafter, until 1930, it remained 10 percent; and you will notice that the National City Co.'s participation in 1920 was likewise 10 percent and thereafter, until 1930, it continues to be 10 percent; and you will notice that Kuhn, Loeb's participation, beginning with 1920, was 10.75 percent and continues fixed and unalterable until 1930, when it remained 10.75 percent; and Harris, Forbes & Co., you will note, Mr. Whitney, beginning with 1920, was 5 percent and thereafter, until 1930, continued to be 5 percent; and Lee Higginson Corporation's interest in 1920 was 5 percent and thereafter, until the last piece of financing in 1930, continued to be 5 percent; you will notice that the Guaranty Co.'s interest was 4.75 percent in 1920 and until the year 1930, the last piece of financing, continued to be 4.75 percent; and the Bankers Trust Co.'s interest in 1920 was likewise 4.75 percent, and thereafter continuing to be 4.75 percent;

¹ See "Exhibit No. 1684," appendix, p. 12219.

² See "Exhibits Nos. 1689-1 and 2," appendix, p. 12236.

³ Referring to "Exhibit No. 1687," appendix, p. 12234.

you will notice in the final column, Kidder, Peabody's interest was 29.75 percent in 1920, after the agreement reached at the library, and thereafter until the last piece of financing under the leadership of your firm, it remained 29.75 percent.

May it please the committee, I now offer in evidence the table from which I have been reading, compiled from records supplied to this committee by J. P. Morgan & Co.

The CHAIRMAN. The table may be received.

(The table referred to was marked "Exhibit No. 1687" and is included in the appendix on p. 12234.)

Mr. WHITNEY. Do I owe you an answer?

Mr. NEHEMKIS. Oh, no; not unless you wish. You needn't say anything.

Mr. WHITNEY. Well, I would like to just comment there, even though it is not in the form of a question; this is very unimportant, of course, but our records were not—they would not have showed Lee Higginson as Lee Higginson Corporation.

The CHAIRMAN. I didn't get that remark.

Mr. WHITNEY. Lee, Higginson & Co. it was, during those days. It is now Lee Higginson Corporation, which is an entirely different thing. The fact that they were unchanged is questionable, too.

The CHAIRMAN. Let that correction appear on the record, please.

Mr. NEHEMKIS. Mr. Whitney—

Mr. WHITNEY (interposing). Mr. Chairman, as I said, it is a fact that they were unchanged during this period, as a fact. But Mr. Nehemkis in his statement used one word in reference to one of them, I don't know which, that they were "unalterable." That is not a fact. It is a matter of almost public record that during these 10 years this group did do these pieces of financing for the Telephone Co., and the only reason, the only point I want to leave with the committee is that that is a fact; we did the business, but that each piece of business rested on its own feet, and that these percentages, or our arrangement with the Telephone Co., were completely alterable at the instance, primarily, of the company, and, secondarily, as the performance of these different people, in their different functions in this job or this service which we were undertaking for the Telephone Co., would change, then the percentages would have changed, as a practical manner. There was no need to change them, however, because the jobs were done satisfactorily. I would be—

The CHAIRMAN (interposing). Then your statement to the committee, Mr. Whitney, is that these 14 abstracts covering a period from 1920 to 1930, though not unalterable, were nevertheless unaltered during that 10-year period.

Mr. WHITNEY. Quite so, and that the reason they weren't altered was the relative importance of these houses to the success of the Telephone Co. financing.

DISTRIBUTION OF SPREAD ON TELEPHONE ISSUES

The CHAIRMAN. Now, what was the total of all of these issues, do you recall? Perhaps that could be run up very quickly.

Mr. WHITNEY. \$832,000,000. That is the par value of the issues which is involved on this sheet.

The CHAIRMAN. Now, of course, there was a big difference between the par value and the amount which the Telephone Co. or its various subsidiaries received for the issue?

Mr. WHITNEY. That would involve, of course, the fact that they were sold on a yield basis—depending on the price to yield a proper return—and, of course, the price to the public had to include what is called the “spread,” which, as Mr. Miller pointed out the other day on this whole business, is approximately $2\frac{1}{2}$ percent gross. Now, that is customarily divided on original terms so much, then there might be an intermediate group, or there might not be, but then there would be the distributing syndicate, which would have seven or eight or nine hundred people in the country, depending on the size of—

The CHAIRMAN (interposing). Let me call your attention to “Exhibit No. 1685” which you identified a little bit earlier in the day. I observe from that, which is a letter which refers to a \$25,000,000 issue, that J. P. Morgan & Co. bought that issue from the Telephone Co. at $90\frac{1}{2}$?

Mr. WHITNEY. Yes, sir.

The CHAIRMAN. And then sold it to the syndicate at $91\frac{1}{2}$?

Mr. WHITNEY. Yes, sir; that is the 1 percent gross profit to the original terms group.

The CHAIRMAN. J. P. Morgan & Co. then received a profit of 1 percent of \$25,000,000; did it?

Mr. WHITNEY. Oh, no, sir.

The CHAIRMAN. All right, then what did it receive?

Mr. WHITNEY. This letter says [reading from “Exhibit No. 1685-1”]:

We beg to advise that we have today purchased for the account of ourselves and associates \$25,000,000 . . . at $90\frac{1}{2}$.

Then it goes on to say [reading further]:

We are forming a syndicate, in which we shall participate, to purchase these bonds from ourselves and associates at $91\frac{1}{2}$.

The CHAIRMAN. So that J. P. Morgan & Co. sold the issue to the syndicate of which it was a part?

Mr. WHITNEY. But the associates—

The CHAIRMAN (interposing). At 1 percent more than it paid the Telephone Co.?

Mr. WHITNEY. No, sir.

The CHAIRMAN. All right, then explain it.

Mr. WHITNEY. No, sir; the associates referred to are this original group in the technical language of the street, the original group of people who participated in the purchase direct from the company. If you will remember this famous memorandum of May 5, 1920,¹ it says “Original terms group”—doesn’t it?

Mr. NEHEMKIS. Right.

Mr. WHITNEY. Now, we and our associates are associates of this whole group, in which we had a 20-percent interest.

The CHAIRMAN. Well, now wait a minute. Who paid $90\frac{1}{2}$ to the Telephone Co.?

¹ “Exhibit No. 1673.”

Mr. WHITNEY. This group, Kidder, Peabody; Kuhn, Loeb; Lee, Higginson; Harris; First; National City; Guaranty Trust; Bankers Trust; J. P. Morgan, in the percentages you have heard this morning.

The CHAIRMAN. Yes; so that in all, when that letter refers to the purchase from the Telephone Co. at 90½, it is referring to a purchase not by J. P. Morgan alone, but a purchase by J. P. Morgan and associates.

Mr. WHITNEY. That's right. It says so.

The CHAIRMAN. Yes. Well, I haven't read the letter carefully. Then there was a resale to a syndicate, a distributing syndicate?

Mr. WHITNEY. A distributing syndicate; yes, sir.

The CHAIRMAN. Now, was that syndicate different from the associates?

Mr. WHITNEY. Well, that would have had, as I said—I don't recall actually in this case, but five, six, or seven hundred people all over this country, in every State of the Union or practically every State in the Union. There would be somebody, a bank, or a dealer, a bond dealer, who would do the actual distribution to the ultimate consumer, and this letter here again, Mr. Senator, the third paragraph of it, if I may read it [reading from "Exhibit No. 1635-1"]:

Your interest in the purchase on original terms is \$2,687,500. We have allotted to you, in the distributing syndicate, a participation of \$750,000,

Now, Kuhn, Loeb, as ourselves, were not retail distributors of bonds; we didn't have salesmen, we never had had, either of us, and, therefore, our participation on original terms is materially reduced, as in this case, from \$2,687,500 to \$750,000, and the balance of that original term participation was spread all over the country.

The CHAIRMAN. Well, I am trying to get at the spread. So, now we begin with a price of 90½, which was all that the Telephone Co. got out of the issue?

Mr. WHITNEY. Yes, sir.

The CHAIRMAN. Then we find that is sold by the managers, if I may use that phrase, at an increase of 1 percent?

Mr. WHITNEY. Right, sir.

The CHAIRMAN. And then we find from that letter that these new purchasers, in turn, distribute to the public at 95 percent?

Mr. WHITNEY. That is right; yes, sir.

The CHAIRMAN. So that the spread here is not 2½ but 4½?

Mr. WHITNEY. In this issue, right.

The CHAIRMAN. Yes. Now, 4½ percent of the \$25,000,000 issue was how much?

Mr. WHITNEY. Well, it would be something over—

The CHAIRMAN. I mean 4½ points.

Mr. WHITNEY. It would be something over a million dollars.

Mr. HENDERSON. It is on the sheet.

The CHAIRMAN. Where is it?

Mr. WHITNEY. But of that, Mr. Senator, the original group with which we have been dealing, got 1 percent, leaving 3½ percent to go to this very large group—I can find out how many but I don't remember unless it says here—to a very large number where we allowed, out of that 3½—that was again subdivided—1½ percent for a man who sold, 2 percent for whatever bonds he took "firm," as we call it, which when he went into the syndicate he had to buy.

COMPETITIVE BIDDING AS AN ALTERNATIVE

The CHAIRMAN. Well, you see, Mr. Whitney, the question that naturally suggests itself to my lay mind is whether or not, if this method of financing were not frozen, to use a word that was brought out by one of the witnesses, whether the Telephone Co. would have had to pay the total of \$1,125,000 for the privilege of selling some high-class bond, and whether, if these bonds had been sold in the open market, at competitive bidding, the Telephone Co. might not have received more. That is the question which naturally suggests itself.

Mr. WHITNEY. Well, may I try to answer that to the best of my ability?

The CHAIRMAN. Yes, sir.

Mr. WHITNEY. Of course, the first answer is that 20 years afterward, we don't know; but in the first place, the Telephone financing—

The CHAIRMAN (interposing). Well, of course, this is the system that existed with respect to 14 issues over a period of 10 years.

Mr. WHITNEY. But if you look at it successively, if you take each one of these up in detail, you will find that this particular issue was refunded within 2 or 3 years on a 5-percent—and then some further bonds were sold on a 4½-percent—basis. In 1920, the Telephone Co. had not reached its position of high credit that it has today. Only 6 months before that there had been an issue which was not handled by this group, in connection with the Southwestern Bell Telephone Co., that had been a failure, and those were 5-percent 5-year notes on a 7-percent basis. Now, we come along here, if you remember, times were pretty bad in 1920 and in September 1920, we had a panic, a little bit of a one compared with our recent or present one, but it was a panic, and this was about the best company in the system, or one of the very good ones, and this was priced right on the market; this 4½-point spread was used to try to induce the dealers throughout the country by very generous treatment, more generous, I think, than any of the subsequent issues, to get them interested in the time they didn't believe it was possible.

The second thing we must remember is that at that time, there wasn't the bond organization built up that there has subsequently been built up, and it was harder to get people to do it. But it is a question of merchandising. Now, whether or not the price could have been an eighth of a point or a quarter of a point higher, I can't tell you, but, of course, the price, if I may say so, Mr. Chairman, is only one factor. When you are doing a job for a man, you want to preserve his credit. In those days, we wanted to build it up. That is what I referred to the other day when I said Mr. Gifford was so anxious to reestablish the credit of his company and reset the Telephone issues. Whether you get an eighth or a quarter of 1 percent more isn't the final consideration. The question is whether they are properly sold, whether you are going to get your credit popular through the country—all those factors come into the distribution, if you consider, as I did, that then—and I believe today—that this business is giving professional advice to your client. You tell him what you think is the best thing for his credit. Nothing hurts so much as a failure, and I think you will find that if anything during this 10 years that are under discussion here, we overpriced the tele-

phone issues rather than underpriced them. Whether the competitive bidding, which you used in the present or colloquial sense of putting things up for tender at the instigation of the corporation—that was not done here because the corporation in its sole, exclusive authority, elected, in view of the size of the job, to come to a certain group of experts rather than to just throw them on the market for what they would bring.

But the price thing isn't the ultimate thing. It is your credit. It is involved, Mr. Chairman.

MR. MILLER. Well, Mr. Whitney, isn't the policy—isn't this the policy in pricing that the United States Treasury seems to follow in pricing its own issues? I have seen all of these recent issues go to an immediate premium which has made those issues popular with the buying public. I have not seen any go to a discount.

MR. WHITNEY. That is exactly so. May I remind you, Mr. Chairman, that at that time, in 1920, the Federal Reserve bank discount rate was 7 percent, and the United States Government Liberty bonds were $4\frac{1}{4}$ and sold at 83. So it is a competitive market, which those figures show better. Now, this price was expensive, but relatively it was not expensive. As Mr. Miller says, this policy has been carried out by the Government persistently in putting their bonds out at what they thought were an attractive price.

THE CHAIRMAN. Well, the Treasury, I fancy, doesn't have any lists that cover a 10-year period, in which certain selected firms only are participating.

MR. WHITNEY. But they don't have competitive bidding, either, sir, except in connection with their Treasury bills, these 90-day Treasury bills. They put them on the counter and anybody may buy them. They are a syndicate all to themselves.

LENGTH OF SUBSCRIPTION PERIOD

MR. NEHEMKIS. Mr. Chairman, in connection with the first question you asked Mr. Whitney, which prompted this discussion, I have had prepared by the staff a table which bears directly on your point; and since it is relevant at this place, I ask leave of the committee to offer it in evidence and discuss it with you briefly. It is a rather unique bit of information. May I offer it, sir?

THE CHAIRMAN. Certainly. What does this represent, Mr. Nehemkis?

MR. NEHEMKIS. This table shows the issues of the American Telephone & Telegraph Co. and associated companies headed by J. P. Morgan during the period we are discussing, 1920 to 1930.

THE CHAIRMAN. This table was compiled by whom?

MR. NEHEMKIS. Compiled by the staff from records furnished by J. P. Morgan & Co. and identified a few moments ago by the witness, now in evidence.

THE CHAIRMAN. Without objection, the table may be admitted.

(The table referred to was marked "Exhibit No. 1688" and is included in the appendix on p. 12235.)

MR. ALEXANDER. Are we going to have the opportunity sometime later on, for instance, to check this?

MR. NEHEMKIS. Oh, quite! Absolutely! I should be disappointed if you didn't, Mr. Alexander.

MR. ALEXANDER. We haven't seen it until this moment.

The CHAIRMAN. You may check any of these exhibits, Mr. Alexander; that is perfectly understood.

Mr. NEHEMKIS. You will note, Mr. Chairman, from this exhibit,¹ it shows the length of time that the syndicate books were open. You will note that in the \$50,000,000 offering of Illinois Bell Telephone Co. 5's, offered on June 14, 1923, the amount of subscriptions was \$126,000,000. Now, note——

Mr. WHITNEY (interposing). Will you go back to the Bell Telephone Co.?

Mr. NEHEMKIS. Well, suppose we run down them in order. The Bell Telephone Co. of Pennsylvania, offered in 1920, an offering of \$25,000,000. The books were opened at 10 o'clock, and they were closed at 1 o'clock. The books were, in short, open 3 hours, and the number of times the issue was oversubscribed was 2.7, or 270 percent. Now, the next issue is the Northwestern Bell Telephone, offered in '21. That was a \$30,000,000 issue, and the information on this, I regret to say, isn't available. Now, take the New York Telephone Co.——

Mr. HENDERSON (interposing). It does show, Mr. Nehemkis, that the issue was three and one-tenth times over the——

Mr. NEHEMKIS (interposing). Correct, sir. Now, if you will drop down a bit and go to the Illinois Bell Telephone 5's of 1923, which was a \$50,000,000 offering, the books were opened at 10 o'clock and closed at 10:30. They were open 30 minutes, and they were oversubscribed 2.5 times. Now, if you will go to the American Telephone & Telegraph issue of 1923, which was one of the largest to date, \$100,000,000, the books were opened at 10 o'clock, closed at 12 o'clock, a period of 2 hours, and oversubscribed 190 percent. Now, if you will go to the next largest one, the \$125,000,000 offering, I think I had better continue—the Southwestern Bell Telephone offering, which was \$50,000,000, in 1924, the books opened at 10 o'clock and closed at 10:01. They were open 1 minute, and were oversubscribed 510 percent.

The CHAIRMAN. The credit of the company was improving.

Mr. NEHEMKIS. Apparently. And the Bell Telephone issue of Pennsylvania offered in '25 which was a \$50,000,000 offering, the books were opened at 10 o'clock and closed 5 minutes later, and the issue was oversubscribed 640 percent. In the next offering of New England Telephone & Telegraph bonds, which was a \$40,000,000 issue, the books were opened at 10 o'clock, closed 10 minutes later, and were oversubscribed 600 percent.

Mr. WHITNEY. May I be excused, if I make just two comments, Mr. Chairman. One of them is more or less regret that there are so few people now living who remember the state of the bond market in the twenties. The second thing is that as we all remember, we didn't have any 20-day clause that we now have in the Security Act of 1933 so that this selling had all been done beforehand. And throughout the twenties we ran into what was colloquially known as "padding," when the dealers throughout the country thought it would gain them credit with somebody, if they wanted 10 bonds, to put in for a hundred. That is again not very different from what sometimes happens with the Treasury issues, where a fellow puts in for his full legal limit. They have learned that trick, too.

¹ "Exhibit No. 1098."

The CHAIRMAN. You mean the Treasury has learned that from you?

Mr. WHITNEY. The bond business of the twenties. Anything that took over 2 or 3 hours in those days was almost a failure. You generally had your books full the day before the books opened. It was more or less of a technical matter. You opened and shut them to prevent getting too much padding, but you couldn't prevent people in those happy days from coming in and taking all there were. You see, these were undivided joint accounts, without exception, in other words, a man in the selling or distributing syndicate had a firm commitment for so many bonds and then he would sell. And they used to, really—it sounds perhaps silly to say it, but it was a great problem as to know how to handle an issue, unless you take the worst of these, one of the worst, New York Telephone, \$50,000,000 in 1921, which you got 8 times oversubscribed. You didn't give anybody what he asked for, because that was what was known colloquially as "padding."

Mr. MILLER. Did a dealer make an additional commission if he oversold his commitment, and had a confirmation of the oversale?

Mr. WHITNEY. He got an additional commission on the oversale if allotted to him; yes.

Mr. MILLER. In other words, he had the chance to make a large profit?

Mr. WHITNEY. In this instance, he had an extra commission of $1\frac{1}{2}$ percent.

Mr. NEHEMKIS. Mr. Chairman, may I ask Mr. Whitney if he would be good enough to tell us, in this connection, for how long a period of time the syndicate books were opened for the 1906 offering that we have discussed with you, the \$150,000,000 offering?

Mr. WHITNEY. Well, Mr. Nehemkis, of course, all this time-clock business doesn't come off our files.

Mr. NEHEMKIS. Well, you know that, Mr. Whitney—

Mr. WHITNEY (interposing). And I think it is pretty well known, at least I have tried to make it clear, that the 1906 issue was anything but a success and, thirdly, the method of distribution in 1906 was completely different.

Mr. NEHEMKIS. You know the period of time, Mr. Whitney; can you tell me quickly?

Mr. WHITNEY. Several years, I think.

Mr. NEHEMKIS. It was open for 2 years, wasn't it?

Mr. WHITNEY. I think it was a great failure.

Mr. NEHEMKIS. Just one other thing, just a minute, Mr. Whitney, when you say—

Mr. WHITNEY (interposing). But may I make the statement that we did not have a time clock on this. We didn't, did we?

Mr. NEHEMKIS. Mr. Whitney, you identified your documents and it was on the basis of your documents¹ which themselves show the lengths of time the syndicate books were open that we prepared this table.

Mr. WHITNEY. The 1906 thing, I don't quite know where I am failing in an answer, because the 1906 issue was known to be open for a long time.

¹ See "Exhibit No. 1686-2."

Mr. NEHEMKIS. Well, I just asked you, Mr. Whitney, so that the record would be perfectly clear. You have done something that is very interesting. You have compared the bonds of the Telephone Co. with the bonds and notes of the Treasury of the United States, and I just wanted to show the comparison.

Mr. WHITNEY. No, sir; I beg your pardon, that is a complete misunderstanding, and I very much regret if the committee got that impression. All I meant was that the Treasury Liberty 4½'s were selling at 83, which was an explanation of the 7-percent price at 95 or 91, whichever price you want to take, the 1906 issue was notoriously a failure, as was the syndicate, not the original group, but a long list of people that we furnished to you, which were mostly banks, stock companies, and people of that kind and a great many individuals. They carried that for a long time, and it was finally washed out in 1908. Of course, a panic intervened in there in 1907. But there is no conceivable analogy between the bond business in 1906 and the bond business in 1920, and if I have given any impression that I was trying to compare the bond business as done in private issues with the Treasury, of course, I do not.

The CHAIRMAN. It might be worthy of comment at this point, since you made the comparison between the price of Liberty Bonds in 1920 and the price of an industrial issue like the Bell Telephone Co., that these Liberty Bonds had been sold during the war, in very small amounts, \$50 bonds and \$100 bonds, to a large number of people, and in many instances, members of the naval and military forces of the United States had purchased those bonds, and that for several years after the boys had come back, some of them were selling those bonds, and that the charge was made then and later on that they were getting a price that was far below the price for Liberties, and that these bonds were moving from what was technically known as weak hands into strong hands during this period.

Perhaps, therefore, the comparison is not altogether as justifiable as it might appear.

Mr. WHITNEY. Mr. Chairman, that is all true, but the market price of money is determined by money rates. It isn't in the hands of bankers or anybody else. It is determined by the trend of money rates, and I only refer to those two things, first, that the Federal Reserve Bank rediscount rate was 7 percent, and, second, that as a result of those money rates, plus the factors you speak of, the liquidation by weak holders, even Liberty Bonds, with their credit, were selling at 83—4½'s, which was, I don't know what the yield was, but it was high. Now, any kind of private corporate financing can only follow money rates, which are determined within microscopic differentials, as to what you offer bonds for. I didn't mean there was any analogy with the Liberties which were sold, as you say, under quite different money conditions, but the fact remains that no one could control money rates, and I merely gave those as an example, perhaps it was an unfortunate one, but the important one there is the Federal Reserve Bank rediscount rate of 7 percent, which determines the general level of money.

Mr. MILLER. Did the Standard Oil companies, during 1920, do some financing at 7-percent coupon rates?

Mr. WHITNEY. Yes, sir; two issues of preferred stock at \$100,000,000 each.

Mr. MILLER. Standard Oil of California and New York, as I recall, did some financing?

Mr. WHITNEY. That is outside of my own knowledge, Mr. Miller.

The CHAIRMAN. Are you ready to take a recess now?

Mr. NEHEMKIS. Yes, sir.

The CHAIRMAN. The committee will stand in recess until 2 p. m. (Whereupon, at 12:30 p. m., a recess was taken until 2 p. m., the same day.)

AFTERNOON SESSION

(The committee resumed at 2:15 p. m. on the expiration of the recess.)

The CHAIRMAN. The committee will please come to order.

Mr. Nehemkis, are you ready to proceed?

Mr. NEHEMKIS. I am, sir.

Mr. HENDERSON. Will you call Mr. Whitehead, Mr. Nehemkis?

Mr. NEHEMKIS. Mr. Henderson requests that I call Mr. William Whitehead, of my staff. Mr. Whitehead, take the witness stand, please.

TESTIMONY OF W. S. WHITEHEAD, SECURITY ANALYST, SECURITIES AND EXCHANGE COMMISSION, WASHINGTON, D. C.— Resumed

The CHAIRMAN. Mr. Whitehead has been previously sworn?

Mr. NEHEMKIS. He has, Mr. Chairman.

Mr. HENDERSON. In order to clear up what seems to be a misunderstanding, and so as not to have any confusion, I want to ask you a few questions relating to Mr. Keyes' testimony this morning.

I understand that you have been working on this Telephone inquiry?

AVAILABILITY OF RECORDS OF J. P. MORGAN & CO. TO THE COMMITTEE

Mr. WHITEHEAD. That is correct.

Mr. HENDERSON. And that you secured from the old Kidder, Peabody records the Winsor copy of the so-called "library agreement"?¹

Mr. WHITEHEAD. That is correct.

Mr. HENDERSON. And that you went to J. P. Morgan and consulted various members of the firm and staff there as to whether or not Morgan & Co. had similar records?

Mr. WHITEHEAD. Yes; that is correct.

Mr. HENDERSON. And I gather from the testimony both of Mr. Whitney and of Mr. Keyes that as far as the original memorandum was concerned, they had no record of that?

Mr. WHITEHEAD. That is correct.

Mr. HENDERSON. And this morning, when inquiry was made as to the four letters² passing between Morrow and Winsor, Mr. Keyes thought that they were in the Bell Telephone syndicate records which were made available to you, is that correct?

Mr. WHITEHEAD. That is correct, commissioner.

¹ "Exhibit No. 1673."

² "Exhibits Nos. 1675, 1676, 1677, and 1678."

Mr. HENDERSON. Well, now, you knew something of the importance attached to the "library agreement." I want to ask you, as far as your memory is concerned, do you feel that if copies of the Winsor-Morrow correspondence had been there when you examined them, you would probably have noticed them and asked for them?

Mr. WHITEHEAD. The answer is yes, without equivocation.

Mr. HENDERSON. I think it is more a matter that you knew clearly what you were looking for.

Mr. WHITEHEAD. Yes; very definitely, I knew what I was looking for.

Mr. HENDERSON. And it is highly possible that Mr. Keyes, not having any knowledge, as he has testified, of those things, did not attach as much importance to them as you might?

Mr. WHITEHEAD. Possibly so, but that is problematical.

Mr. HENDERSON. And when you went to Kidder, Peabody and got there the originals and the carbons, you instantly recognized them as having something to do with the modification of the so-called "library agreement"?

Mr. WHITEHEAD. That is correct.

Mr. HENDERSON. Mr. Chairman, this is merely for the purpose of emphasizing the professional status of the investigator. I am not raising any question of veracity.

The CHAIRMAN. You want it understood that he did not think he was overlooking anything?

Mr. HENDERSON. Yes. I want to have it understood that the S. E. C. is very proud of its investigators, and I would hate anything that might cause confusion to be recorded against their professional ability.

Senator KING. You testified as to your own competence?

Mr. WHITEHEAD. Yes, sir.

Mr. HENDERSON. Another thing. We have arranged for Mr. Keyes, as you heard this morning, to see whether they were there. That is entirely the point. It is a question of making available to the committee these originals or anything else that might pertain to this particular item. That is all.

The CHAIRMAN. Very well.

Will you call the next witness, please?

Mr. NEHEMKIS. I recall Mr. Whitney.

TESTIMONY OF GEORGE WHITNEY, J. P. MORGAN & CO., NEW YORK, N. Y.—Resumed

Mr. NEHEMKIS. Mr. Whitney, I show you a copy of a syndicate record of the \$2,155,000 Telephone Co. First Mortgage 7 Percent Gold Bonds, and a copy of a syndicate record of the \$2,676,000 Cuyahoga Telephone Co. 7 Percent Gold Bonds.

You will recall, Mr. Whitney, that during the testimony this morning you had occasion to make reference to these two sheets which were furnished to us by your colleague Mr. Alexander, last week. Will you examine these and tell me whether you recognize them to be true and correct copies of originals?

Senator KING. While Mr. Whitney is making that examination, Mr. Nehemkis, for my own information—unfortunately I have been detained in other places than the District of Columbia until a few minutes ago—will you tell me the purpose of this investigation and the relevancy to any matter that is under consideration by the committee, so that I may determine for my own benefit, its relevancy and materiality?

Mr. NEHEMKIS. I think Commissioner Henderson could do that with much more propriety than I could, Senator King.

Mr. HENDERSON. I think I can answer that with the introductory statement I made, and I will secure a copy of that right away.

Senator KING. Thank you. That may not do it for me until I read it, but I will not delay you.

Mr. NEHEMKIS. Shall I go on, sir?

The CHAIRMAN. Proceed.

TELEPHONE ISSUES NOT COVERED BY "LIBRARY AGREEMENT"—APPLICABILITY OF "TRIO ARRANGEMENT"

Mr. WHITNEY. Those are the copies of the papers furnished by us.

Mr. NEHEMKIS. Now, these records, Mr. Whitney, refer to two pieces of underwriting, October 25, 1921, one I have already indicated involving an offering of \$2,155,000 of Telephone First Mortgage 7 Percent Gold Bonds, and the other the Cuyahoga Telephone Co. First Mortgage 7 Percent Gold Bonds.¹

Mr. WHITNEY. That is right.

Mr. NEHEMKIS. Do you have copies before you?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. Now, who were the members of the original terms group in that underwriting?

Mr. WHITNEY. Well, they were both the same, I think. The First National Bank of New York, 22½ percent; National City Company, 22½ percent; Huntington National Bank, Columbus, Ohio, 10 percent. J. P. Morgan & Co., 45 percent.

Mr. NEHEMKIS. Now, earlier in your testimony, Mr. Whitney, you had occasion to refer to the "trio arrangement" between the First National Bank, the National City Co., and J. P. Morgan & Co.² Do you recall?

Mr. WHITNEY. Yes, sir.

Mr. NEHEMKIS. Was this piece of underwriting to which reference has just been made, involving these three institutions, part of the old "trio arrangement"?

Mr. WHITNEY. Well, the percentage figures would lead one to believe that, but I am afraid my memory, except as it has been revived by these documents, is practically nonexistent.

Mr. NEHEMKIS. I would merely call to your attention, Mr. Whitney, that this underwriting took place after the conference of May 5, 1920, and that the participants in the syndicate of this underwriting are not the same as in the other, and therefore I merely inquired of you

¹ Referring to "Exhibits Nos. 1689-1 and 1689-2."

² Supra, p. 11853.

whether this was another instance of where the old "trio arrangement" operated, but you have given me your answer that you do not recall.

Mr. WHITNEY. It clearly indicates it is entirely outside of any percentage which we discussed this morning.

Mr. NEHEMKIS. Mr. Chairman, I offer these two documents in evidence as identified by the witness.

The CHAIRMAN. Without objection, they may be received.

(The two syndicate records of \$2,155,000 and \$2,676,000 referred to were marked "Exhibits Nos. 1689-1 and 1689-2," and are included in the appendix on p. 12236.)

Mr. NEHEMKIS. Mr. Whitney, what justification was there for including Kidder, Peabody in the management fee?

MANAGEMENT FEE TO J. P. MORGAN & CO. AND KIDDER, PEABODY & CO.

Mr. WHITNEY. The management fee, as you have just stated, appears for the first time in this issue, and the justification for having a management fee at all, and particularly in this business, was that here in the telephone business we and Kidder, Peabody & Co. did all the clerical, manual work involved in the distribution. You will remember that this morning I pointed out that this 70 percent country and 30 percent for New England had to do with the distribution of telephone securities or any other securities as they came along.

Now, all the syndicate records, all the examination of documents, all the preparation of whatever papers were necessary in the various transactions, were handled through either J. P. Morgan & Co., or Kidder, Peabody & Co., and we felt that the amount of actual out-of-pocket expense to which our two organizations were put justified a management fee, so-called.

That fee, if you will follow through the bookkeeping, was charged only to members of the original group. It was not charged against the syndicate and must not be confused with so-called syndicate expenses. It was merely that Kidder and ourselves in this instance did all the manual work, the clerical work, for the members of the original group and as such we felt it was justified.

Your question was, Why was Kidder justified in its share? And I hope that I have included that in my answer. They did the leg work for New England, and I think you will find the percentage they got was 30 percent of the total management fee.

Mr. NEHEMKIS. I would like to read into the record, if I may, sir, at this time, a memorandum which was previously offered. This is, as you will recall, Mr. Chairman, from the files of the old Kidder, Peabody firm, previously identified.

January 25, 1924—

The CHAIRMAN (interposing). May I ask you what was the origin of "Exhibit No. 1680-2"?

Mr. NEHEMKIS. These were obtained from the files of the old Kidder, Peabody firm.

The CHAIRMAN. Both sheets?

Mr. NEHEMKIS. Yes, sir; identified by Witness Chapin.

The CHAIRMAN. Was the handwriting identified?

Mr. NEHEMKIS. No, sir; it is of no consequence to the testimony. Shall I proceed, Mr. Chairman?

The CHAIRMAN. Please.

Mr. NEHEMKIS (reading from "Exhibit No. 1680-2"):

At the time of the purchase of Southwestern Bell Telephone First 5%, Series "A," of 1954, the Proprietary Profit was distributed on a different basis, in accordance with letter from J. P. Morgan under date of January 25th, 1924, as per following extract.

I now quote from the extract [reading further]:

We are forming a syndicate in which we shall participate to purchase these bonds from ourselves and associates at 91% and accrued interest and to offer them for public subscription at 93½% and accrued interest. In accordance with our discussion at the meeting at which the above purchase was reported verbally today, we plan to charge a managing commission of one-eighth per cent on the principal amount of bonds to be issued. After full consideration of the matter and in line with the understanding that the decision as to the allocation of this one-eighth would be left to us, we have thought it was advisable to charge it against the profit of the original purchasers.

And the original document continues [reading further]:

The above method to be followed in all subsequent telephone issues, i. e.:

1% of issue less ½% for managers' commission.

¼ of said ½% to go to K. P.

¾ of said ½% to go to J. P. M.

leaving ⅓ per cent to be divided among the Proprietors.

And then follows a caption indicating who the New England proprietary interests were.

I call to your attention, sir, the notation which again has been identified by Witness Chapin, at the bottom [reading further from "Exhibit No. 1680-2"]:

February 17-30—

although the original document is dated January 25, 1924—

as per J. R. Chapin Old Colony consolidated with First Natl. and check for 5% interest was sent to First Natl. Bank on American Tel. & Tel. 5% due 1965.

The CHAIRMAN. The significance of that, I assume, is that Old Colony under the original listing received 3 percent and the First National received 2 percent, so that the combination, the sum of the two, was 5 percent?

Mr. NEHEMKIS. Yes.

Mr. WHITNEY. Mr. Chairman, I inadvertently made a misstatement. I said the management fee was divided 70-30, and I would like to correct that, if I may, because reading from the so-called syndicate record, which we have furnished the committee, the management fee of one-eighth percent amounted to \$62,500, Kidder, Peabody receiving a quarter of this fee.

May the record be perfectly clear that the letter ¹ that Mr. Nehemkis quoted, mentioning the original terms, and the word "proprietary" again is Mr. Winsor's word and not ours.

The CHAIRMAN. Yes; and I observe that the proprietary interests, as set forth in this exhibit, are all New England interests.

Mr. WHITNEY. Right, sir.

Mr. HENDERSON. I think, Mr. Chairman, I had a general rebuke for counsel the other day for using the word "proprietors" and I see, again, he is on firm ground in having used it.

¹ "Exhibit No. 1680-2."

Senator KING. Mr. Nehemkis, I note in one of the papers which have been handed to me concerning which you are now interrogating the witness, the words and figures, "May 6, 1920." Do these transactions to which you have just referred go back to 1920 to some transaction then?

Mr. NEHEMKIS. Yes.

Senator KING. In other words, you are now investigating concerning transactions under which the syndicate was formed to acquire and take over and dispose of certain stocks and bonds away back in 1920?

Mr. NEHEMKIS. We have done even worse than that, Senator, we have gone back to the year 1906. [Laughter.]

Senator KING. Why don't you go back to the beginning of time? [Laughter.]

Mr. HENDERSON. I think the record, Senator, will show why we went back to 1906.

Senator KING. I suppose there is some valid reason.

Mr. HENDERSON. I assure the Senator that there is, and it is consistent with the terms of reference set down by the resolution creating this committee.

Mr. NEHEMKIS. Mr. Whitney, before I dismiss you, may I just ask one or two questions so that I may be clear in my own mind and that the record may be perfectly clear?

Mr. WHITNEY. Yes, sir.

Mr. NEHEMKIS. There is no question in your mind, is there, sir, that there was a meeting at "the library" on May 5, 1920?

Mr. WHITNEY. Not the slightest.

Mr. NEHEMKIS. And that the persons who were present at this meeting were Mr. J. P. Morgan, Mr. Henry P. Davison, and Mr. Robert Winsor?

Mr. WHITNEY. There is no question in my mind that they were there, although, to make the record perfectly clear, we have no record of such a meeting.

Mr. NEHEMKIS. And the only living person today who could testify concerning what transpired during that meeting is Mr. J. P. Morgan? The other two gentlemen who were present are deceased?

Mr. WHITNEY. Mr. Nehemkis, you used "could." I have already told you that Mr. Morgan says he can't, and if this is an attempt to disqualify my statement—

Mr. NEHEMKIS (interposing). Heavens, no! You misunderstand, Mr. Whitney.

Mr. WHITNEY. May I finish?

Mr. NEHEMKIS. Surely.

Mr. WHITNEY. The facts are as you state, but the inferences are not, because I am perfectly competent to testify what went on at that meeting from my own recollection. The question was technically correct. Mr. Morgan is the only one of the three gentlemen who is now living that attended that meeting. That is true.

Mr. NEHEMKIS. And the only record in evidence concerning what transpired at that meeting and the agreement resulting therefrom is Mr. Winsor's memorandum¹ dated May 5, 1920?

¹ "Exhibit No. 1673."

Mr. WHITNEY. That is not correct, because there is another memorandum¹ in evidence in which the first part of it is in my handwriting.

Mr. NEHEMKIS. The *aide memoire*?

Mr. WHITNEY. It is a memorandum, isn't it?

Mr. NEHEMKIS. What we have been calling the *aide memoire*?

Mr. WHITNEY. Well, whatever you want to call it, it is still a memorandum which was on the purpose for which the meeting was called, and of that I have personal knowledge so that you can't, I think, correctly say that the memorandum found in Kidder's files unsigned, and otherwise unidentified, except being there, is the only memorandum that has to do with that meeting.

Mr. NEHEMKIS. Mr. Chairman, may I now recall Mr. Chapin?

The CHAIRMAN. Mr. Chapin.

Is this witness dismissed? Do you wish the present witness to step aside?

Mr. NEHEMKIS. If he will, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Whitney.

TESTIMONY OF JOHN R. CHAPIN, KIDDER, PEABODY & CO., BOSTON, MASS.—Resumed

PERCENTAGE PARTICIPATIONS SUBSEQUENT TO "LIBRARY AGREEMENT"— THE NEW ENGLAND INTERESTS

Mr. NEHEMKIS. Mr. Chapin, I observe that you have been present at the session this morning, and you have no doubt followed the testimony?

Mr. CHAPIN. Yes, sir.

Mr. NEHEMKIS. I have recalled you simply to review with you what I have already reviewed with Mr. Whitney, the realignment in the percentage interests after the arrangement or agreement of May 5, 1920. The percentage participations, as finally agreed upon, differed from those suggested by Mr. Davison, in that Mr. Davison had proposed to allot a 6½-percent interest to Lee, Higginson, Guaranty Trust Co., Bankers Trust Co., and a 9-percent interest to New England, but the finally agreed-upon decision gave 5 percent to the houses I have just mentioned, and 15 percent to New England, is that correct?

Mr. CHAPIN. That is correct.

Mr. NEHEMKIS. Mr. Whitney's testimony has disclosed that as a result of Kuhn, Loeb's dissatisfaction with the redistribution reached at "the library," an additional three-fourths of 1 percent was given to Kuhn, Loeb, is that correct, sir.

Mr. CHAPIN. An additional three-fourths of 1 percent was given. I presume it was through Kuhn, Loeb's dissatisfaction with their 10 percent.

Mr. NEHEMKIS. I was merely asking you to tell me whether the three-fourths of 1 percent was made available.

Mr. CHAPIN. I understand.

Mr. HENDERSON. I asked Mr. Whitney whether he knew why Kuhn, Loeb was such a stickler for that other three-fourths percent. Do you of your own knowledge know the reason?

¹ "Exhibit No. 1679."

Mr. CHAPIN. I do not, sir.

Mr. NEHEMKIS. If I were to suggest that it might perhaps have been that that immediately took them out of the 10-percent class and gave them a standing probably third in the issue, is that likely to have been it?

Mr. CHAPIN. I should think that might very well have been it.

Mr. NEHEMKIS. Mr. Chapin, of this three-fourths of 1 percent, did not Kidder, Peabody cede one-quarter out of its own participation?

Mr. CHAPIN. It did.

Mr. NEHEMKIS. The New England proprietary interests, therefore, as finally agreed upon, were as follows [referring to "Exhibit No. 1674"]:

Kidder, Peabody & Co., $14\frac{3}{4}$ percent; Old Colony Trust Co., 3 percent; Estabrook, $2\frac{1}{2}$ percent; Day, $2\frac{1}{2}$ percent; Moseley, $1\frac{1}{2}$ percent; Hayden, Stone, $1\frac{2}{3}$ percent; The First National, 2 percent; Shawmut Bank, 2 percent; making a total of $29\frac{3}{4}$ percent. Do you recall?

Mr. CHAPIN. Well, my remembrance was that Hayden, Stone were $1\frac{2}{3}$, and Moseley $1\frac{1}{3}$.

Mr. NEHEMKIS. I show you a memorandum, "Exhibit No. 1674," previously identified by you. I ask you to examine this and see whether this refreshes your recollection.

Mr. CHAPIN. Moseley, one and one-third of this.

Mr. NEHEMKIS. Correct.

Mr. CHAPIN. And Hayden, Stone & Co., one and two-thirds, as I stated.

Senator KING. Mr. Nehemkis, I notice Shawmut, 2 and 30. You stated 2.

Mr. NEHEMKIS. I am not sure that I know which document.

Mr. HENDERSON. It is the last one.

Senator KING. The last one, the last item there on one of these sheets. Shawmut, 2. Then there is a space, then, 30. The 30 would not be a fractional part of the assignment to Shawmut; would it?

Mr. HENDERSON. That is the total of all New England interests.

Mr. NEHEMKIS. Except, Mr. Chapin, for the changes in name and identity, those were the proprietary interests of the New England group in all A. T. & T. and associated financing from the year 1920 until the last issue of A. T. & T. securities prior to the passage of the Banking Act of 1933?

Mr. CHAPIN. From 1920 to 1930, those were the interests of the New England group.

Mr. NEHEMKIS. And they remained as you have just testified?

Mr. CHAPIN. They remained that way.

Mr. NEHEMKIS. And the changes were as follows: The consolidation of the 3 percent interest of the Old Colony Trust Co. with the 2 percent interest of the First National Bank upon the consolidation of these corporations in the year 1930?

Mr. CHAPIN. Yes. There was a consolidation of the securities departments of these two banks.

Mr. NEHEMKIS. And the transfer of the 2 percent interest of the Shawmut Bank to the Shawmut Corporation in the year 1925?

Mr. CHAPIN. Yes.

Mr. NEHEMKIS. And the transfer of the Hayden, Stone & Co. interest of $1\frac{2}{3}$ percent to Haystone Securities Corporation in 1923?

Mr. CHAPIN. Made at their request.

Mr. NEHEMKIS. That is all, Mr. Chapin.

I recall Mr. Whitney.

Senator KING. I would like to ask the last witness one question, if I may. It may not be relevant to his testimony.

The CHAIRMAN. Mr. Chapin, will you again take the stand?

Senator KING. Were you familiar with the allocations which were made of these?

Mr. CHAPIN. Only from the record.

Senator KING. Do you know whether or not the price paid for the bonds, the stock, whatever were issued—

The CHAIRMAN (interposing). Bonds.

Senator KING. Bonds—was a reasonable price, or whether, if this syndicate had not been formed, a better price might have been obtained by those seeking to dispose of the bonds from the general public?

Mr. CHAPIN. Well, Senator, I can't go back as far as that to give you any reasonable opinion on it.

Senator KING. That is all.

(The witness was dismissed.)

Mr. NEHEMKIS. Mr. Whitney, please?

TESTIMONY OF GEORGE WHITNEY, PARTNER, J. P. MORGAN & CO., NEW YORK, N. Y.—Resumed

TELEPHONE FINANCING SUBSEQUENT TO THE BANKING ACT—ACTIVITIES OF GEORGE WHITNEY

Mr. NEHEMKIS. Mr. Whitney, after the enactment of the Banking Act of 1933, did not J. P. Morgan & Co. elect to discontinue its securities business?

Mr. WHITNEY. We elected to continue in the banking business.

Mr. NEHEMKIS. Which is saying the same thing that I asked you.

Mr. WHITNEY. It is the same thing, put a little more accurately.

Mr. NEHEMKIS. Now, during this 1933-34 period, was there not a good deal of consideration given to refundings as a result of the decline in the interest rate?

Mr. WHITNEY. 1933-34?

Mr. NEHEMKIS. Yes.

Mr. WHITNEY. I don't remember any. Was there a decline in the interest rate? I don't remember any.

Mr. NEHEMKIS. Now, since you were recognized in the financial community as your firm's specialist in Telephone financing, did any of the investment banking houses have occasion to discuss with you Telephone business?

Mr. WHITNEY. Of course, I must deny your qualification, and in the second place, you are talking about 1933 and 1934.

Mr. NEHEMKIS. Yes.

Mr. WHITNEY. I don't remember any.

Mr. NEHEMKIS. During the period 1933 through 1935, did any partners of investment banking firms have occasion to discuss with you Telephone matters?

Mr. WHITNEY. Oh, I think so.

Mr. NEHEMKIS. Do you recall what partners of what firms?

MR. WHITNEY. Well, I should hesitate to attempt to try to recollect such an unimportant thing as that, inclusively. I remember certain ones who did. But I would be bound to say that my recollection has been rather stimulated by these papers you have asked from us. I can remember a partner in the new firm of Kidder, Peabody & Co., I remember talking about it with Mr. Mitchell.

MR. NEHEMKIS. What partner of the new Kidder, Peabody firm?

MR. WHITNEY. Several.

MR. NEHEMKIS. By chance, Albert H. Gordon?

MR. WHITNEY. No.

MR. NEHEMKIS. Which ones, do you recall?

MR. WHITNEY. Well, there were three others, two others—Mr. Chandler Hovey and Mr. Herman R. Kinnicut.

MR. NEHEMKIS. Mr. Mathers, will you step forward, please? He has already been sworn.

I show you a letter on the stationery of Kidder, Peabody & Co., dated New York, March 2, 1935, which purports to bear the signature of Mr. Albert H. Gordon. Will you examine this and tell me whether you obtained this from the files of the Central Hudson Gas & Electric Corp.

MR. MATHERS. I did, sir.

MR. NEHEMKIS. That is all, thank you.

I read to you from the second page of his letter——

Senator KING. By whom written?

MR. NEHEMKIS. Albert H. Gordon, partner of the firm of Kidder, Peabody & Co., to John Wilkie, Esq., of Central Hudson Gas & Electric Corp., dated March 2, 1935. I read from the second page of this letter [reading from "Exhibit No. 1690"]:

It is my guess that there will be much utility refunding within the next six months. At the moment Pacific Gas & Electric Company is working actively on the refunding of its \$40,000,000 5½% bonds due 1952. The Telephone Company has been giving serious consideration to refunding its Illinois Bell Telephone and Southwest Bell Telephone issues, but has decided for the time being to do nothing because of political fears. Confidentially, George Whitney told the company that it might be possible to sell these issues on a 3½ basis, less 2½ points to the bankers. Whitney feels that the company should proceed on a refunding operation and is endeavoring to obtain reassurances from Washington which will be satisfactory to the management.

I offer in evidence, Mr. Chairman, the letter just identified and from which I have read.

(The letter referred to was marked "Exhibit No. 1690" and is included in the appendix on p. 12237.)

MR. NEHEMKIS. Now, Mr. Whitney, do you recall, during this period, having any conversations with Mr. Charles E. Mitchell concerning prospective Telephone financing?

MR. WHITNEY. I have already said I did.

MR. NEHEMKIS. Mr. Chairman, I would like you to examine a stipulation signed by Mr. Mitchell, dated December 14, 1939, in connection with certain letters which I shall have occasion to offer in evidence.

Senator KING. Is it your purpose to offer these letters without further corroboration of their authenticity?

MR. NEHEMKIS. That is what I requested Mr. Mitchell to do when he signed that stipulation, so it would not be necessary to bring him

back. He had been a witness before the committee earlier last week.

Mr. WHITNEY. Of course, the record shows that first letter from Gordon has nothing whatever to do with us.

Has that been identified?

The CHAIRMAN. It was identified by one of the staff of the S. E. C.

Mr. WHITNEY. It has nothing to do with us, of course.

The CHAIRMAN. Is it your purpose to offer these various letters and memoranda which Mr. Mitchell, by his stipulation, indicates he would identify if he were present?

Mr. NEHEMKIS. Correct, sir.

The CHAIRMAN. Unless there is objection, they may be admitted as they are presented.

Senator KING. Excuse me. Why didn't you offer the letters when Mitchell was on the stand, if they are material?

Mr. NEHEMKIS. They were not material in connection with Mr. Mitchell's testimony. They are now, with this witness' testimony, and I wanted the record to have the letters at this time, rather than in another place, that was all.

The CHAIRMAN. You did not offer this stipulation. Perhaps you had better do that.

Mr. NEHEMKIS. Shall I? I offer, Mr. Chairman, Mr. Mitchell's stipulation.

The CHAIRMAN. It may appear in the record.

(The stipulation referred to was marked "Exhibit No. 1691" and is included in the appendix on p. 12238.)

Mr. NEHEMKIS. I now read from a memorandum by Charles E. Mitchell, dated June 27, 1935, addressed to three of his associates, Messrs. G. Leib, E. Bashore, and S. Hawes [reading from "Exhibit No. 1692"]:

In a general—

The CHAIRMAN (interposing). This is one of the memoranda mentioned in the stipulation?

Mr. NEHEMKIS. It is. I shall try and remember in each instance to specify they are covered by the stipulation.

In a general discussion yesterday with Mr. George Whitney of J. P. Morgan & Company, the subject of A. T. T. financing was brought up. Mr. Whitney said that Mr. Walter Gifford was being pestered by proposals and calls from investment banking houses and that he was doing nothing about any of them other than to give full reports to Mr. Whitney.

Mr. Whitney intimated that J. P. Morgan & Co. would have very complete domination in the matter of funding plans and the selection of bankers to do the business, and suggested that aside from writing Mr. Gifford a personal note, he felt it would be not only a waste of time but unwise to press financing ideas upon him, and that when the time came for financing I need have no fear that we would lose out by this procedure. I have written Mr. Gifford as he suggested.

Initialed C. E. M.

Mr. Chairman, I offer this memorandum, covered by Mr. Mitchell's stipulation, in evidence.

The CHAIRMAN. This is the memorandum dated June 27, 1935. It may be received.

(The memorandum referred to was marked "Exhibit No. 1692" and appears in full in the text.)

Senator KING. Of course, your contention is it would not bind Mr. Whitney or anybody else. It is Mr. Mitchell's.

Mr. NEHEMKIS. I have not made any allegations or characterizations at all. I merely present the facts to you for your evaluation.

Mr. Mitchell wrote to Walter S. Gifford, president, American Telephone & Telegraph Co., as follows [reading from exhibit No. 1693]:

As you doubtless have read, I am back in the investment banking business, my connection being that of Chairman of the Board of Blyth & Company.

Senator KING. Chairman of what?

Mr. NEHEMKIS. Of the board of Blyth & Co. That is Mr. Mitchell's firm.

I would be inclined to chat with you about your financing but I have no doubt that you are being pestered from all quarters, and believing that whether the banking house that has handled your financing in the past is in the investment banking business or not, you will undoubtedly be guided by their views, I am not going to count myself in among the pesterers. I merely remind you that I am again active and if at any time I can be of service in any way, I shall be delighted.

Mr. Chairman, I offer in evidence the letter of Mr. Mitchell, dated June 27, 1935, covered by the stipulation.

The CHAIRMAN. It will be received.

(The letter referred to was marked "Exhibit No. 1693" and is included in the appendix on p. 12238.)

Mr. NEHEMKIS. I have here, Mr. Chairman, a letter from Mr. C. A. Capek, C-a-p-e-k, assistant treasurer of Lee Higginson Corporation, dated December 11, 1939, addressed to the committee's counsel. I read to you from that letter [reading from "Exhibit No. 1694"]:

At the request of Mr. W. S. Whitehead, through Mr. N. P. Hallowell in our New York office, we are enclosing a copy of a letter dated April 4, 1935, written by Mr. Hallowell to Mr. Charles H. Schweppe in Chicago.

I now read to you from the letter transmitted as described.

Senator KING. Who were those persons referred to by you just now?

Mr. NEHEMKIS. These are all parties associated with the investment banking house known as Lee Higginson Corporation, with offices in New York and Chicago, and elsewhere, and the letter is as follows [reading from Exhibit No. 1695]:

I had a very interesting luncheon yesterday with Walter Gifford of the Telephone Company. They are considering registering a \$50,000,000 issue of Southwestern Bell Telephone Co. The bonds outstanding were offered in 1924 by J. P. M. & Co., K. L. & Co., Kidder, Peabody & Co., First National Bank, Bankers Trust Co., Harris Forbes, National City Co., Guaranty Co. and L. H. & Co. These bonds are callable at 105 whereas most of the telephone issues are callable at 110.

He said—

Referring to Mr. Gifford—

they were tied up to no one and they had not discussed how to take up the matter of selling. He said that a great many houses on the street have been to him for telephone refunding and that he realized there was quite a problem ahead of them to do the thing right so as not to stir up enmity among the various houses on the street. I said "Why not use those members of the old telephone group who are still in the business as a starter, and invite in others who are the leading distributors?" He said that very possibly that might be a good way to do it. He told me that J. P. M. & Co. would not be the guiding hand as to who was to come in. I told him that if he wanted to sell us \$50,000,000 Southwestern Bell Telephone 3½s at 100 less 2½% commission we would take them. That led to the question which I was hoping

he would ask of the set-up of our corporation and our capabilities for doing business and gave me the chance to tell him the amount of business we have been in during 1934. He said it has been suggested that they sell this \$50,000,000 issue to one or two insurance companies but he did not think that that was a very good idea but even if they did that they would want to register the bonds as he would have nothing to do with private sales. I told him that if he did have them registered we could sell them to insurance companies as well as anybody else but he said in case they did the Company would do it direct, but there again that probably was not the best thing for the Company to do.

He understands our position in the old telephone group and I am sure would not object, in fact, I think he would be glad, to have us in any group doing telephone financing in the future but he reiterated that they had not discussed any group and that they were beholden to no one. He told me to call him up towards the end of the month and perhaps he could tell me more. He was very friendly and I feel free to go to him at any time and I certainly will not leave it until the end of the month before seeing him again.

I want you to note, if you will, Mr. Chairman and members of the committee, this last paragraph [reading further]:

In spite of his saying that Morgan would not wield the guiding hand he said of course he would talk everything over with George Whurny and it might be a good idea for me to talk to George Whitney also, which I will do next week on his return. So far so good. If you can offer any suggestions which would help me in making more sure of our position, please let me know.

Mr. Chairman, I offer in evidence the letters which I have just read to you.

The CHAIRMAN. They may be received.

(The letters were marked "Exhibits Nos. 1694 and 1695" and are included in the appendix on p. 12239.)

Senator KING. I have gathered, during the short time that I have been here this afternoon—and I apologize that I have not been here before—I was west and didn't return to Washington until a few minutes ago—that an issue was to be made by the Telephone Company of a considerable sum for the purpose of refunding, if not for original issue, and the talk to which you have referred and the letter to which you have referred, dealt with the possibility or the probability of certain organizations, certain investment banking companies and corporations, taking these various issues?

Mr. NEHEMKIS. Yes.

Senator KING. Well, is it your contention that that was a violation of any law if issues were divided among a large number of people where millions and hundreds of millions were involved?

Mr. NEHEMKIS. It's not my function, Senator King, to make allegations of that sort. I present to you facts, and you evaluate them.

Senator KING. I think I understand you, Mr. Nehemkis.

Mr. NEHEMKIS. Just so that we may review the matter to date, review the sequence of events together, Mr. Whitney, I understand you to testify that at this time, J. P. Morgan & Co. had elected to remain a bank of deposit; right?

Mr. WHITNEY. At what time are you talking about?

Mr. NEHEMKIS. 1933-35, the period of time now under discussion.

Mr. WHITNEY. Just in the interest of accuracy, we did not make that election until June 1934; in '35, obviously we had made the election.

Mr. NEHEMKIS. And J. P. Morgan & Co. at this time was no longer in the securities business?

Mr. WHITNEY. No.

Mr. NEHEMKIS. That is correct?

Mr. WHITNEY. Certainly.

Mr. NEHEMKIS. At that time, Mr. Whitney, were you a member of the board of directors of the A. T. & T. Co.?

Mr. WHITNEY. No. I never have been.

Mr. NEHEMKIS. But Mr. Gifford felt constrained to make reports to you about all discussions that he was having with other members of the investment banking community, according to Mr. Mitchell?

Mr. WHITNEY. My understanding, Mr. Chairman, is that Mr. Nehemkis wants me to take up these exhibits and discuss them, but I can't discuss anything about Mr. Gifford quoted by other people. I can comment on all these, and I hope I will have the opportunity to do so as far as they affect me, but I can't answer the question.

The CHAIRMAN. You are at liberty to make any comment you care to.

Mr. WHITNEY. The question counsel asks would be impossible for me to answer of my own knowledge. He asked me if Mr. Gifford felt free to call upon me.

Mr. NEHEMKIS. I was referring to a memorandum¹ which I will now refer directly to the witness, in which Mr. Charles E. Mitchell, whom we had the pleasure of hearing recently, reported to his associate Mr. Bashore on June 27, 1935, that he had a conference with Mr. Whitney and that Mr. Whitney and he had discussed Telephone matters. I think it is perfectly proper under the circumstances for me to ask the witness whether he has any knowledge about a conference of that sort.

The CHAIRMAN. Well, that question has not been raised. Of course, there would be no objection to your asking the question, and the witness has already indicated his desire to make comment upon these matters, and, of course, the committee will be very glad to extend him that opportunity.

Mr. WHITNEY. Well, that last question is a very simple one to answer, if there were a question in that statement, because, of course, I did, as I testified earlier, have a talk with Mr. C. E. Mitchell about Telephone financing. He was one of the three men I mentioned with whom I had talked. The fact is also true that I had several talks during '35 with Mr. Gifford about his financing plans.

I would like, if I may, to recall to the committee the fact that I have testified several times in the last 2 days that my firm had been employed in the past with others by Mr. Gifford to do a certain mechanical part of the financing and resetting of the Telephone picture. My firm, and partly myself—perhaps largely myself as an individual—had been advising the Telephone Company on financial matters since 1920 anyway, and probably before that, and where we were out of the security business from June 1934 there was nothing implied or anything else in the law that we could not continue to serve our clients, and we have tried to do so ever since and will continue to do so in a way that is entirely proper.

Mr. Gifford came to me because he wanted to get advice on his financial program. It is a matter of almost common knowledge that the passage of the Banking Act in 1934 necessarily threw out of gear

¹ "Exhibit No. 1692"

the existing machinery of investment banking. We were only one of many whom that affected, as has been testified here.

Mr. Gifford certainly came to us and asked our advice, and I certainly gave him all the advice and the best advice that I could possibly do. This second paragraph of this memorandum,¹ as the Senator pointed out, says or intimates certain things. Well, I just think, if I may be so bold as to say this, it is just nonsense. I could not have ever intimated that I could dominate or ever wanted to dominate Mr. Gifford, and anybody who had ever seen him would know this statement was ridiculous; at best, it only says intimated, that I intimated, whatever that means.

Now, you have read other letters, from Mr. Hallowell,² and you have read a letter—well, that is the only other one, I guess, which says that Mr. Gifford was talking to me, but Mr. Gifford's own exposition of his attitude toward the problem, it seems to me, is the most accurate one. Nobody dominated him—which I have been trying to say all morning and Friday. He was talking to various people, had given consideration to many plans, and as a matter of fact, Senator, there was no immediate contemplation of any financing. That was merely one of many things that he did consider, and it wasn't that particular issue that was the first one after this interval. There wasn't any other issue, if my memory is correct, until 6 months after all these conferences.

But I can't—Mr. Mitchell brought an inference from me, but I would like to take this opportunity to just say that when he claimed that I claimed or intimated or anything else, that I had complete domination, it just is silly.

Senator KING. That is, it isn't true?

Mr. WHITNEY. It isn't true.

Mr. NEHEMKIS. Mr. Chairman. unless it is the pleasure of the committee to direct any further questions to Mr. Whitney, he may be dismissed. I desire to call another witness.

The CHAIRMAN. Well, now, have you finished—

Mr. NEHEMKIS (interposing). I have finished with Mr. Whitney now.

The CHAIRMAN. You are not going to recall him?

Mr. WHITNEY. Oh, I think so.

May I read just one very short statement, because I should like to do it to make it perfectly clear? This came up in the very beginning. Just to clarify things, I should like to read this statement issued by J. P. Morgan & Co. made on June 7, 1934. It is as follows [reading]:

In order to comply with existing banking laws, both state and federal, we have, under Article IV of the New York State Banking Law, made application to Joseph A. Broderick, State Superintendent of Banks, to continue as private bankers. The Superintendent has made an examination of our affairs as of June 1, 1934, and in the event that he approves the application, we shall, in accordance with the law, be prepared to publish our statement whenever called for by the State Superintendent of Banks.

Just so that the record will be clear as to what we did do.

Senator KING. That is, after J. P. Morgan & Co., if it had not been before, was incorporated, it existed under and by virtue of the laws of the State of New York?

¹ "Exhibit No. 1692."

² "Exhibit No. 1695."

Mr. WHITNEY. Yes, as required by the banking law of 1935.

Senator KING. I see.

Mr. WHITNEY. Or license.

Senator KING. License law, and that license still exists?

Mr. WHITNEY. Yes, sir.

Senator KING. And any operations to which reference has been made since you have been on the stand have been under and by virtue of the position of the corporation to which you referred?

Mr. WHITNEY. Yes, sir.

Senator KING. After the last—

Mr. WHITNEY (interposing). We have been rendering a service to our clients which is in no sense investment banking service. It is in full compliance with the Federal laws and the State laws.

The CHAIRMAN. Thank you, Mr. Whitney. The committee is very grateful for your very ready responses to the many questions which have been asked.

Call your next witness, Mr. Nehemkis.

Mr. NEHEMKIS. Mr. Harold Stuart, take the witness stand, please.

**TESTIMONY OF HAROLD L. STUART, PRESIDENT, HALSEY, STUART
& CO., INC., CHICAGO, ILL.**

The CHAIRMAN. Do you solemnly swear that the testimony which you are about to give in this proceeding will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. STUART. I do.

The CHAIRMAN. Please be seated, Mr. Stuart.

**REQUEST BY HALSEY, STUART & CO., INC., TO BID ON ILLINOIS BELL
TELEPHONE CO. BONDS**

Mr. NEHEMKIS. Mr. Stuart, will you state your name and address, please?

Mr. STUART. Harold Leonard Stuart, 999 Lake Shore Drive, Chicago.

Mr. NEHEMKIS. And you are associated with the investment banking firm of Halsey, Stuart & Co.?

Mr. STUART. I am the president of Halsey, Stuart & Co.

Mr. NEHEMKIS. Mr. Stuart, will you tell me about how large your distributing organization is at the present time, what your facilities are for distributing securities throughout the country?

Mr. STUART. Well, we have a great many salesmen. I can't give you the amount offhand.

Mr. NEHEMKIS. Well, just indicate the size.

Mr. STUART. Oh, I should say we have upward of a hundred.

Mr. NEHEMKIS. Upward of a hundred?

Mr. STUART. Yes.

Senator KING. May I ask a question?

Mr. NEHEMKIS. Surely.

Senator KING. Is the corporation organized under the laws of Illinois?

Mr. STUART. It is, and its main office is in Chicago.

Senator KING. It has branches in various other parts of the United States, or representatives, rather?

Mr. STUART. Yes, and branch offices.

Senator KING. That is since it became a corporation. When did it become a corporation?

Mr. STUART. In 1911.

Senator KING. And it existed since that time without modification of its charter?

Mr. STUART. The name was changed to Halsey, Stuart & Co. in 1916.

Senator KING. All right.

Mr. NEHEMKIS. In about the year 1935 or 1934, were the distributing facilities of your firm less than they are at present?

Mr. STUART. They were fully as big as now.

Mr. NEHEMKIS. Fully as big. Without giving me any precise figures, but just responding, if you will, to my question generally, would it be fair to say that the capital position of your house compares favorably to that of any other investment banking house in the United States?

Mr. STUART. I wouldn't have a direct knowledge of that, but that is my impression.

Mr. NEHEMKIS. Would that also have been true on or about the years 1934, 1935?

Mr. STUART. I believe so.

Mr. NEHEMKIS. Is it a correct assumption on my part, Mr. Stuart, that outside of the city of New York, your firm is one of the largest houses?

Mr. STUART. I think so; yes.

Mr. NEHEMKIS. And that your general securities business compares favorably to most houses in the city of New York?

Mr. STUART. I think that is a fair statement.

Mr. NEHEMKIS. Now, during—have you been in the room this afternoon?

Mr. STUART. I have.

Mr. NEHEMKIS. As a matter of fact, you have been here for several days, haven't you?

Mr. STUART. I have been here since last Tuesday.

Mr. NEHEMKIS. You heard the testimony of the previous witness?

Mr. STUART. Yes; I did; most of it.

Mr. NEHEMKIS. So you are familiar with the time sequence that we are now discussing, the period 1934-35?

Mr. STUART. I think I am; yes, sir.

Mr. NEHEMKIS. At about that time, Mr. Stuart, were you interested in Telephone financing?

Mr. STUART. I tried to be interested in Telephone financing.

Mr. NEHEMKIS. In what way did you try to get interested in Telephone financing?

Mr. STUART. In the summer of 1935, I understood that the Illinois Bell Telephone Co. were going to refund their bonds—were talking of it—and I sought an opportunity to bid on those bonds.

Mr. NEHEMKIS. Whom did you see? You say you sought an opportunity?

Mr. STUART. I sought an opportunity from Mr. Gifford.

Mr. NEHEMKIS. The president of the Telephone Company?

Mr. STUART. The president of the American Telephone & Telegraph Co.

Mr. NEHEMKIS. In other words, you came on from Chicago to New York presumably and arranged an appointment and saw Mr. Gifford?

Mr. STUART. I did.

Mr. NEHEMKIS. Can you recall at this time the general nature of your discussion with Mr. Gifford?

Mr. STUART. Yes; I can. I was particular to be introduced to Mr. Gifford, whom I didn't know, so that he would feel that he was talking to someone of responsibility, and I told him that I was there for the purpose of seeking an opportunity to bid on the Illinois Bell Telephone bonds if, as, and when refunded. He was very pleasant and very brief; he told me that all his affairs were in the hands of Morgan Stanley & Co. and if I wanted to participate in any bond issues, it could only be through them.

Mr. NEHEMKIS. No further questions, Mr. Chairman.

Senator KING. How large were the bond issues that you were interested in?

Mr. STUART. Forty-five or fifty million.

Senator KING. For the one company?

Mr. STUART. Of that company; yes, sir.

Senator KING. Did you seek an opportunity to bid on the bonds other than that which you have just related?

Mr. STUART. That was as far as I could go.

Senator KING. You didn't see anybody else?

Mr. STUART. No.

Senator KING. Did you attempt to buy any of the bonds after they had been floated?

Mr. STUART. I think we had a small participation in the selling group.

Mr. MILLER. What was the size of the participation, Mr. Stuart? Small?

Mr. STUART. Well, I would have to guess at it. I would say \$350,000 to \$500,000, which would be small for us.

Mr. MILLER. That was in the selling syndicate?

Mr. STUART. That was in the selling syndicate; yes, sir.

Mr. MILLER. Did you speak to Morgan Stanley after Mr. Gifford suggested it?

Mr. STUART. My recollection is that I asked Mr. Gifford if he would care to, when he refused to give me a chance to bid, that I asked him if he would feel like officially requesting Morgan Stanley & Co. to allot a very substantial amount of that issue to the Chicago dealers, including my own firm, and he said "no"; that he would not make any such request, but that he would mention the matter to Mr. Stanley, and he advised me to telephone Mr. Stanley.

Mr. MILLER. But you didn't do so?

Mr. STUART. I went back to Chicago and thought it over, and then telephoned Mr. Stanley, not for the purpose of asking him for a position in the underwriting, but really to check up to see whether Mr. Gifford had telephoned Mr. Stanley. Mr. Stanley said Mr. Gifford had spoken to him about it.

Mr. MILLER. And you said nothing further then? You said nothing further to Mr. Stanley?

Mr. STUART. No, sir; that was all.

The CHAIRMAN. How long have you been engaged in the investment banking business?

Mr. STUART. Well, I am 58 years old, and I have been in it since I was 13.

Mr. HENDERSON. Did you have much capital at that time?

Mr. STUART. I didn't have a dime.

Senator KING. Has it been profitable? It has been profitable, hasn't it?

Mr. STUART. On the whole, yes; I think it has.

The CHAIRMAN. And are you familiar with this method of financing referred to by one of the witnesses as a "frozen" system?

Mr. STUART. I have learned more in the last week than I ever dreamed about the manner in which these syndicates in the East are handled. I have always lived in Chicago and have done business in Chicago.

The CHAIRMAN. Well, do they have any "frozen" accounts out there?

Mr. STUART. I have never been a party to one.

Mr. NEHEMKIS. That was not the question.

The CHAIRMAN. Well, do they have them?

Mr. STUART. I say, they may have them, but I have never been a party to them.

The CHAIRMAN. Well, do you know of them?

Mr. STUART. I do not, but that doesn't mean that one doesn't exist.

The CHAIRMAN. Yes; then what has been the type of financing in which you have been engaged, if it has not been the frozen type?

Mr. STUART. All types of financing but—

The CHAIRMAN (interposing). I mean with respect to this particular issue of the frozen account as against one that is not frozen.

Mr. STUART. Well, my experience in general is that when every deal comes up, it is considered on its own basis at the time.

The CHAIRMAN. Well, by that do you mean that an issuer does not ordinarily go to one banker and say, Will you handle this account for me, or that he always offers it to a group of bankers, to get competitive bids, as it were?

Mr. STUART. Well, since, I think before the passage of the Securities Act in 1933, it was the general custom for a corporation to pick out an investment banker that they wanted to take charge of their business and do it with them, but since that—since the passage of the act, why, it has been anybody's business.

The CHAIRMAN. Well, was that the custom in Chicago prior to the passage of the act?

Mr. STUART. Yes; I think that was the custom generally prior to the passage of the act, yes, sir.

The CHAIRMAN. Then you have had experience of that kind, in Halsey, Stuart?

Mr. STUART. Oh, indeed, we have had experience, but you asked a while ago, as I understood it, about whether such accounts were frozen, and we were always sure of a certain percent of something, and I had to say no, we were not.

The CHAIRMAN. Well, I am trying to get a thorough picture of just how you understand this business to have been handled.

Mr. MILLER. Mr. Chairman, may I ask a question?

The CHAIRMAN. Go ahead.

Mr. MILLER. Mr. Stuart, have you no accounts of corporations that you handled over periods of years, or have you always done financing, at least headed up groups, that did their financing?

Mr. STUART. Yes; we have such, or we had, until the passage of the Securities Act, but since then, it has been very much scattered. The business that we used to have we don't have now.

Mr. MILLER. Have you done no financing since the passage of the Securities Act for any of these corporations that you previously had?

Mr. STUART. Yes, we have done some.

Mr. MILLER. Which ones, Mr. Stuart?

Mr. STUART. Well, now, let me give you—you take the Middle West Utilities Co.: Prior to the passage of the Securities Act, we did a great deal of it; we were head of the financing, the bond financing. All we handled were bonds, of many of the companies. But since that time, I should say, of a dozen different issues that we formerly were the head of, we have not been the head of now but have had some participation in them.

Mr. MILLER. Well, I asked you if there were any that you had done the financing for since, that you had always done before?

Mr. STUART. That we did before?

Mr. MILLER. Yes.

Mr. STUART. Yes.

Mr. MILLER. And I asked you if you would tell me a few of the accounts.

Mr. STUART. Well, take the Commonwealth Edison Co., People's Gas Co., Central Illinois Public Service Co., Northern Indiana Public Service Co., Public Service of Indiana.

Mr. MILLER. The accounts, then, have carried over since the passage of the Banking Act, and you still are doing the financing and heading up the groups?

Mr. STUART. Quite right.

Mr. MILLER. Are any of those—have you still associated with you some of the previous syndicate members who were associated in the beginning before the passage of the Security Act?

Mr. STUART. Well, some, yes, sir, but they are very largely new names, very largely new people.

Mr. MILLER. Why is that, because of changes in houses?

Mr. STUART. Changes in business, houses going out of business, consolidations, disappearance of bank affiliates.

Senator KING. Then there has been mortality among the investment bankers as well as those engaged in commercial banking?

Mr. STUART. Yes, sir.

Senator KING. You know, in the West, the name Halsey, Stuart & Co. is very familiar to us. You have done a good deal of business in the West, have you not?

Mr. STUART. Yes, sir.

Senator KING. In the mountain region?

Mr. STUART. Yes, we have done quite a good deal.

Senator KING. You had competition, I suppose, but still you underwrote a good many of the bonds, didn't you?

Mr. STUART. Yes, sir.

Senator KING. And sold a great many issues?

Mr. STUART. Yes, sir.

Senator KING. You had no competition from the banking houses in New York, did you, the investment-company houses in New York?

Mr. STUART. Well, if there is any business that we have got in Chicago that the New York investment houses haven't tried to get since the passage of the Securities Act, then I don't know what it is.

Senator KING. Well, it is a wholesome thing if there is competition, isn't there?

Mr. STUART. Oh, I agree to it.

Senator KING. But, I say, in the West, and I am particularly referring to the western coast and to the intermountain region, you have done a large amount of business there, and you haven't had very much competition from the investment houses of New York, have you?

Mr. STUART. Well, we haven't done so very much out in the west coast region. Our business has been done mostly in the Central West.

Senator KING. And when you built up a reputation for integrity, as I assume you did, and I am very happy to confirm that assumption—

Mr. STUART (interposing). Thank you, sir.

Senator KING. Then you attempted, of course, to hold your clientele, did you not?

Mr. STUART. We tried to give them our best service; yes, sir.

Senator KING. And would you take over their bond issue, the entire bond issue, if you could?

Mr. STUART. Yes, sir.

Senator KING. Without dividing it with A, B, and C, if you could?

Mr. STUART. If I could get it all, we'd do it.

Senator KING. Exactly. And that has usually been the case of the investment companies, hasn't it?

Mr. STUART. I think it has. That is what we are in business for.

Senator KING. And the largest investment companies, of course, have been established, and, having established themselves and obtained their clientele, had some little advantage, the same as you had a little advantage, over the smaller investment companies; that is, not investment companies, but patrons who desired credit, and specially those that were new corporations, new sources, new organizations that desired capital?

Mr. STUART. No; I wouldn't say that is so. I would say that there are a good many organizations that have been formed since the passage of the Banking Act that do get the business of former concerns who were not in the business then.

Senator KING. Well, isn't it a fact it is the same with investment companies as it is with lawyers; if a lawyer has established himself as in the confidence of a large clientele, when a corporation or an individual gets into trouble, who have been the clients of this lawyer, they go to him rather than to some other lawyer who might be just as good, or perhaps even better?

Mr. STUART. I should think that was natural; yes, sir.

Senator KING. And the fact that very large bond issues, as a rule, seek large investment companies—that is, investment companies of integrity and prestige and capital such as yours, Morgan, and others, I am not sure of the names—seek them for the floating of their bonds or the sale of their securities?

Mr. STUART. I think that is generally true; yes, sir.

Senator KING. Now, there is no inhibition or no prohibition against an individual or a corporation seeking capital, going to any person where they could get the best results?

Mr. STUART. I don't think there is, but some of my competitors don't agree with that. I think that Halsey, Stuart's policy is that they will bid on any bonds that they want to buy, where invited to do so by the responsible official of the corporation, regardless of who has been the banker before, and we are constantly seeking such contacts or opportunities.

Senator KING. But you have a chance to bid on any issue that is made by a corporation?

Mr. STUART. Well, we didn't have a chance on the Illinois Bell Telephone Co.

Senator KING. Why?

Mr. STUART. I can't answer.

Senator KING. Why didn't you go to the corporation and ascertain?

Mr. STUART. Why, we thought that Mr. Gifford was the man to see. Perhaps I made a mistake there; perhaps I should have gone to someone else.

Senator KING. Well, did he tell you to go to anybody else?

Mr. STUART. He did not; no, sir.

Senator KING. Well, why didn't you go to somebody else?

Mr. STUART. Well, again, I repeat that I thought he was the man to see.

Senator KING. Did you tell him that you would bid more than anybody else?

Mr. STUART. I didn't get that far.

Senator KING. You didn't get that far? Well, if you were very earnest to obtain the business, why didn't you make him an offer?

Mr. STUART. Well, I don't think we would want to do that. I don't think we would want to make an offer unless we were invited to do it.

The CHAIRMAN. Mr. Stuart, if I understood you correctly, you said that you had learned more about the manner in which the investment banking business is conducted in the East during the few days you have been attending this committee hearing than you had known before. Did I understand you correctly?

Mr. STUART. You did, sir.

The CHAIRMAN. Would you mind telling us what is the outstanding fact that you have learned about this business?

Mr. STUART. Well, briefly, it amused me very much to find out that the boys all divide up something they don't own. [Laughter.]

The CHAIRMAN. Anything else?

Mr. STUART. I think that covers a lot, Senator.

The CHAIRMAN. Very well. Thank you very much, Mr. Stuart.

Mr. NEHEMIS. I call Mr. Albert H. Gordon.

The CHAIRMAN. Do you solemnly swear that the testimony you are about to give in this proceeding will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. GORDON. I do.

TESTIMONY OF ALBERT H. GORDON, KIDDER, PEABODY & CO.,
NEW YORK, N. Y.

The CHAIRMAN. Please be seated.

Mr. GORDON. Thank you.

Mr. NEHEMKIS. Mr. Gordon, will you state your full name and address to the reporter, please?

Mr. GORDON. Albert H. Gordon, New York City.

Mr. NEHEMKIS. Are you not a partner of the new firm of Kidder, Peabody & Co.?

Mr. GORDON. Yes, sir.

Mr. NEHEMKIS. How long have you been a member of that firm?

Mr. GORDON. I became a partner in March 1931.

KNOWLEDGE BY THE REORGANIZED KIDDER, PEABODY & CO. OF "LIBRARY
AGREEMENT" OF 1920

Mr. NEHEMKIS. Were you present today during the earlier testimony, Mr. Gordon?

Mr. GORDON. I have been here during all the time today and on Friday.

Mr. NEHEMKIS. Mr. Gordon, were you familiar with the agreement of May 5, 1920, in a general way, before you heard the testimony here?

Mr. GORDON. I was not familiar with the agreement set forth in the papers until those papers were shown me after they had been taken from the files of our predecessor firm in Boston. In a general way, I knew of Kidder, Peabody's position in the Telephone business in the past, and I knew the specific amounts that Kidder, Peabody & Co. had underwritten in the past, but as to the agreement, I had no knowledge of it. Before we took over the business of Kidder, Peabody & Co. in 1931, we made a very thorough study of its background. Obviously, in 1931, we were not going to risk our capital unless we made a study which, to our satisfaction, was thorough. It was obvious to us that the most important phase of Kidder, Peabody's business had been the distribution of Telephone securities. Kidder, Peabody had probably, or has probably, distributed more Telephone securities than any other concern in the United States.

In spite of the financial difficulties of Kidder, Peabody in 1931, it seemed to us that the name could be rehabilitated because there must have been a great many satisfied clients who had bought Telephone securities from Kidder, Peabody & Co. We did not think that there was any agreement, that Kidder had any proprietary interest or any agreement for Telephone financing. We did feel, however, that if we built back the business, that if we could keep our capital intact, which we put into the business, and if we could build up the distribution, that we would be approached by whoever led the Telephone business, to take part in it.

In passing, I would like to comment, if I may, on the term "proprietary." I never heard the term until these papers were shown to me, when they were taken from our Boston files. I understand that Mr. Winsor, the senior partner of the old firm, was very adept at coining phrases, and, therefore, I think that the term "proprietary" is an invention of his.

The CHAIRMAN. Well, you noticed that it went through a large number of exhibits?

Mr. GORDON. Mr. Chairman, Mr. Winsor was the dominant partner of Kidder, Peabody from 19— I can't say the exact date, but from around 1910 or 1915, until his death. Practically nothing was done in Kidder, Peabody & Co. without Mr. Winsor's full knowledge and approval.

The CHAIRMAN. The first exhibit¹ that I recall was that of, oh, sometime during 1920. Perhaps my recollection may be a little vague, but it appeared then, and then again as late as 1924 with the memo² on which there was a notation as late as February 1930, and in this exhibit of 1924, not only do you have the heading, "Proprietary Interests," but on the attached memo³ you have this phrase: "Balance of seven-eighths divided as usual to proprietors." So that the idea is used in two ways, proprietary and proprietors.

Now, are you testifying that though this apparently appeared on various memoranda in the files of the old Kidder, Peabody Co., you never had any knowledge of it at all?

Mr. GORDON. No, sir; I never had any knowledge of it.

Mr. NEHEMKIS. Mr. Gordon, did I understand you correctly to say, in response to my question, that you never had any knowledge of the agreement of May 5, 1920? Now, before you answer, I want you to think very carefully.

Mr. GORDON. I had no knowledge of any such agreement. As I have said, in studying the records, the syndicate records, which were available to me, I knew that Kidder, Peabody had a certain percentage in various issues of the Telephone Co. and of its subsidiaries. I had no knowledge of any agreement that had been made between Mr. Winsor and the partners of J. P. Morgan & Co.

Mr. NEHEMKIS. You did know, did you not, that the old firm of Kidder, Peabody had operated under some kind of an arrangement for many years, whereby it had the exclusive distribution of Telephone securities in New England?

Mr. GORDON. Yes; I knew that.

Mr. NEHEMKIS. Now, Mr. Gordon, about the early part of September of the year 1935, did you have occasion to discuss the matter with Mr. Harold Stanley of the newly organized firm of Morgan, Stanley & Co., Incorporated?

Mr. GORDON. If I may do so, I should like to go back to 1931, to the conversations regarding Telephone business and tell about them.

Mr. NEHEMKIS. Well, I will give you full opportunity, as every witness has always had, as you know, since you have been here, but may I ask if you answer my question as best you can?

Mr. GORDON. May I have that question again?

(The question was read.)

Mr. GORDON. To the best of my knowledge, I did.

Mr. NEHEMKIS. Now, what was the nature of your discussions with Mr. Stanley, as you recall them now?

Mr. GORDON. When I learned that Morgan, Stanley had been asked by the Telephone Company to form a syndicate to underwrite and distribute the Illinois Bell Telephone bonds, I went to Mr. Stanley to

¹ "Exhibits Nos. 1672 and 1674."

² "Exhibit No. 1680-2."

³ "Exhibit No. 1680-1."

ascertain what our position would be. I told him of it, reminded him of the past background of Kidder, Peabody in Telephone securities. I told him of what we had done to build up our position in distributing over the period of 1931 to 1935. I told him that because Kidder, Peabody had distributed so many securities, Telephone securities, that we felt that we were in an unusually good position to do an effective job in the prospective issue.

Mr. NEHEMKIS. Did you not also——

Mr. GORDON. I used——

Mr. NEHEMKIS. Oh, excuse me. I'm sorry.

Mr. GORDON. The matter was of very great importance to us, obviously. I used every argument at my command to get as large a position as possible for my firm.

Mr. NEHEMKIS. Did you not also discuss with Mr. Stanley at this time whether or not your firm would have, as it did in the old days, the exclusive distribution of Telephone securities throughout New England?

Mr. GORDON. No, sir; and I wished to go back to 1931 in order to explain that.

Mr. NEHEMKIS. I will give you a full opportunity to do that, Mr. Gordon.

Mr. GORDON. But by that time we knew that there was not the slightest chance of our wholesaling securities in New England and, to the best of my knowledge, that subject was not mentioned. It is difficult to remember exactly what took place 4 years ago.

Mr. NEHEMKIS. Now, you said, if I understood you correctly, that you knew by that time that you would not have any chance to get the New England distribution. Just how did you know that fact?

Mr. GORDON. If I may, Mr. Chairman, I would like to go back, as I said before——

Senator KING. You can go back.

Mr. GORDON. It is very difficult for me to put back pieces. I can do it as a whole. I have never been a witness in this kind of thing before, and it makes it very difficult for me to answer the question as perhaps you wish.

(Senator King assumed the chair.)

Acting Chairman KING. It might be wise not to state conclusions on hearsay testimony. If you have primary testimony——

Mr. GORDON (interposing). Yes, sir; thank you.

Before we took over the business, we investigated the background. It was obvious, as I said, that one of the main reasons for our being interested was the performance of Kidder, Peabody in Telephone securities. We negotiated the purchase of the goodwill of the business from the old partners, represented by a revolving credit which was headed by J. P. Morgan & Co. Most of our conversations for purchasing goodwill of the business took place with Mr. George Whitney. Mr. Whitney told us that if any Telephone financing came in the future to J. P. Morgan & Co. there would have to be a change in the status of Kidder, Peabody & Co. in the account; that wholesaling by two different concerns of an issue was not sound, control should be unified, and that we would just have to reconcile ourselves to the change—not reconcile ourselves, but take into account that there would be such a change.

He told us that our position would depend on circumstances prevailing at the time of a future issue, and would be decided on——

Mr. NEHEMKIS (interposing). May I interrupt you just a moment, Mr. Gordon. What was the time of this conversation with Mr. Whitney?

Mr. GORDON. This conversation took place, roughly, in January, either January, February, or March, of 1931.

Mr. NEHEMKIS. Will you proceed, Mr. Gordon.

Mr. GORDON. Then that answers the question of when we learned that Kidder, Peabody & Co. would not have the right to wholesale Telephone securities in New England—that is, Kidder, Peabody & Co., as a new firm, would not have the right if we organized it. When we talked to Harold Stanley in 1935, Harold Stanley said Morgan, Stanley was a new firm; Kidder, Peabody was a new firm, and the situation would have to be—the circumstances would have to be decided.

Acting Chairman KING. Well, Kidder, Peabody was not a new firm, was it?

Mr. GORDON. Yes, sir.

REORGANIZATION OF KIDDER, PEABODY & CO. IN 1931

Acting Chairman KING. I understood you to say that it was a new firm and you used the word, “we” several times. “We took it over.” You mean reorganized it?

Mr. GORDON. Yes, sir; reorganized it. The old firm of Kidder, Peabody changed its name to the Devonshire Corporation, and we purchased the goodwill and continuing nature of the business, and went on with the name of Kidder, Peabody & Co.

Acting Chairman KING. Did you purchase anything besides the goodwill?

Mr. GORDON. No, sir, but we purchased certain assets.

Acting Chairman KING. Did you have any capital?

Mr. GORDON. Yes, sir; we started business with a capital of \$5,300,000. We purchased certain assets of a going nature, accounts receivable, securities, with readily marketable value.

Acting Chairman KING. What was the value of that?

Mr. GORDON. Sir, I can't tell you from memory. I would think that we might have, at the time Kidder, Peabody had deposits and we assumed the deposits. Naturally, there are assets against those deposits. I can supply a balance sheet of them——

Acting Chairman KING. No; I am not asking for that.

Mr. GORDON. As of that time. Kidder, Peabody at that time had deposits, I guess, of about six to eight million dollars, which we assumed.

Acting Chairman KING. That is, those are liabilities?

Mr. GORDON. Those are liabilities; and we were given assets on the other side.

Acting Chairman KING. Equivalent to the liabilities?

Mr. GORDON. Yes, sir.

Acting Chairman KING. So you started out then with practically \$5,000,000?

Mr. GORDON. Yes, sir; capital.

Acting Chairman KING. Would you expect a corporation with only five million—an investment company with only \$5,000,000 of capital—to be as favorably situated in the market to take over the handling of large issues, say, forty, fifty, sixty, or seventy million dollars refunding operations, as a corporation that had a much larger capital?

Mr. GORDON. No, sir.

Acting Chairman KING. I understood you to say that it was advantageous to—or rather it would be disadvantageous to have a number of wholesalers of securities and it would be far better to have one wholesaler to handle this distribution?

Mr. GORDON. I did not make myself clear.

Acting Chairman KING. All right, go on.

Mr. GORDON. It was disadvantageous to have one wholesaler in New England keeping one set of books, another wholesaler handling the rest of the country and keeping another set of books; a wholesaler in New York, not being acquainted with the wholesaler in New England and what he was doing, could not keep the control that, in an intricate, large-sized operation, was essential for efficient operation.

Mr. HENDERSON. Is that your conclusion, or was that what the representations made by Mr. Whitney were?

Mr. GORDON. Sir, we had hoped that we would be continued as the wholesaler in New England, but we all along were realists enough to realize that the hope was very much of a rainbow.

Mr. HENDERSON. Well, you didn't answer my question directly. I asked you whether that conclusion—

Mr. GORDON (interposing). Oh, excuse me!

Mr. HENDERSON. That you gave to Senator King was your own or whether it was one that was made by Mr. Whitney in this conversation you said you had, when you discussed the matter in 1931?

Mr. GORDON. We had to, it was obvious that we had to recognize the truth of the status.

Acting Chairman KING. Don't state a conclusion, just what did he say? We will determine what the conclusion will be.

Mr. GORDON. As I remember, sir, this was 10 years ago—8 years ago. He said—

Acting Chairman KING (interposing). Now, you are speaking of Mr. Whitney?

Mr. GORDON. Yes, sir.

Acting Chairman KING. And he said this to you about 8 years ago?

Mr. GORDON. Eight or nine years ago.

Acting Chairman KING. Was that before you became interested?

Mr. GORDON. When we were considering becoming interested.

Acting Chairman KING. All right, proceed.

Mr. GORDON. That it was wise for the business to have it handled in one source, the books to be handled in one source, that as time went on and as the Telephone issues became bigger and bigger, the fact that Kidder, Peabody & Co. were wholesalers of securities in New England, was making it less easy for J. P. Morgan & Co. to do the job that was necessary to be done. I believe that certain of the Telephone securities that were being wholesaled, supposedly, in New England, were coming up in other parts of the country, and it made it difficult for J. P. Morgan to have an orderly marketing operation.

Acting Chairman KING. May I ask another question? Suppose that an issue you have, say, of \$50,000,000 of New England securities, were

divided \$20,000,000 to J. P. Morgan, \$30,000,000 to you, and the balance to Halsey, Stuart & Co., each one having, or fixing, the price at which they were to be sold. Would not that be a discouraging factor or have a discouraging effect upon the market, or would it be better, not only for the distributor, but for the corporation that was obtaining the money, to have one sole distributor? I am asking for information.

Mr. GORDON. It would be to the advantage of the corporation to have one sole distributor.

Acting Chairman KING. That would be the advantage, then, of the utilities organization to have one distributor, so that there would be—

Mr. GORDON (interposing). That is, one main distributor with relation to other dealers.

Acting Chairman KING. Yes; I understand that.

Mr. MILLER. You really mean one manager, don't you?

Mr. GORDON. Yes, one manager; that's what it is.

Mr. MILLER. One manager handling all of the syndicate books, making allotments to these dealers throughout the country. He could handle it better than dividing it up into two managers operating in nearby areas.

Mr. GORDON. That is correct.

Mr. NEHEMKIS. Mr. Gordon, I am sorry to say that I am a little bit confused about this conversation that you described in January or February or March of 1931 with Mr. Whitney. I would like to retrace that with you and perhaps you can help me understand that. On or about January or February or March of 1931 you had some discussions with George Whitney. Who instigated those discussions?

Mr. GORDON. We instigated them. As I recall it, we instigated the discussions because at that time, that is, by we, I mean Webster, Hovey, and myself, who were the original partners of the new firm of Kidder, Peabody & Co., were negotiating for the purchase of the goodwill and certain of the assets of the old firm of Kidder, Peabody & Co.

Mr. NEHEMKIS. Now, what has that got to do with your seeing George Whitney at that time?

Mr. GORDON. As I said, Mr. George Whitney—we purchased the goodwill and the assets of the old partners who were represented by a revolving credit which had advanced money to the old firm of Kidder, Peabody & Co. This revolving credit had been headed by J. P. Morgan & Co.

Mr. NEHEMKIS. You mean, J. P. Morgan & Co. bailed you out at that time, is that what you are talking about?

Mr. GORDON. No, sir; it did not bail us out. We had no previous connection with Kidder, Peabody & Co.

Mr. NEHEMKIS. Oh, they loaned you the money?

Mr. GORDON. No, sir; nobody loaned us any money. Can I make that—let me—

Acting Chairman KING (interposing). You had the \$5,000,000, you and your associates?

Mr. GORDON. Yes, sir. If I may—this is the letter I wrote to Mr. Nehemkis, and I think it will explain it.

Mr. NEHEMKIS. Before you start, may the record show at this point very clearly that Mr. Gordon is introducing a letter—

Acting Chairman KING (interposing). Wait until we see what it is when he introduces it.

Mr. NEHEMKIS. He is reading a letter which has not been offered by counsel.

Acting Chairman KING. Well, let's see if it is material. You wrote a letter to whom?

Mr. GORDON. This is a letter, sir—I can describe what happened, I think, but I would like to have—I can do it without reference to this letter, but I will stand in back of what I say in this letter. Or I can say it verbatim, if you wish.

Acting Chairman KING. Hand the letter to Mr. Nehemkis and if he thinks, under the terms of the authority that this committee has, that it is proper, it will be received.

Mr. NEHEMKIS. I should say, Senator, that I have seen this letter. This letter is addressed to me. I had hoped that Mr. Gordon wouldn't make any reference to it, but if he wants to make any further reference to it, he will be perfectly at liberty to do so.

Acting Chairman KING. If it is self-serving, what are the facts in it? If it is material, what are the facts brought out by the letter?

Mr. GORDON. All right, sir. In 1931, we purchased the goodwill and certain of the assets of the prior firm of Kidder, Peabody & Co.

Acting Chairman KING. Yes; you stated that.

Mr. GORDON. Yes, sir. I am sorry to—I have never been a witness before, and you have got to excuse my redundancy. The Kidder, Peabody & Co. had obtained—the prior firm of Kidder, Peabody & Co.—had obtained a \$10,000,000 credit from a revolving credit headed by J. P. Morgan & Co., in order to carry on its business.

Mr. AVILDSSEN. Just what is a revolving credit?

Mr. GORDON. \$10,000,000 was placed at the disposal of the predecessor firm to be used, if necessary—

Mr. AVILDSSEN (interposing). By J. P. Morgan & Co?

Mr. GORDON. No, sir; by a group of banks headed by J. P. Morgan & Co., including the First National Bank of New York, the Guaranty Trust Co., the First National Bank of Boston, and half a dozen others, the Chase National Bank. J. P. Morgan's interest in the credit was \$2,500,000 out of the \$10,000,000.

Mr. AVILDSSEN. All right.

Mr. GORDON. In addition, \$5,000,000 of new capital was raised by the old partners. In the course of a half-dozen months, 3 months, it became apparent that there was not enough money to carry on the business. We then—

Acting Chairman KING (interposing). Pardon me, but you had the \$5,000,000 plus the—

Mr. GORDON. The old firm.

Acting Chairman KING. Yes, plus the \$10,000,000, of which J. Pierpont Morgan had furnished two million plus?

Mr. GORDON. Yes, sir.

Acting Chairman KING. That is to say, the old firm was then in part indebted to Morgan and other corporations or other banks, for its capital or for the revolving fund which it utilized to carry on its business?

Mr. GORDON. Yes, sir.

Acting Chairman KING. But its capital consisted of a much smaller sum than the \$10,000,000?

Mr. GORDON. Well, it raised \$5,000,000 in new money.

Acting Chairman KING. I see.

Mr. GORDON. It then became obvious, as the depression went on, that it was necessary to raise more money in order to carry on the business.

We interested ourselves in purchasing the goodwill. We put the old firm in an airtight compartment, so to speak, and started a new firm with the name of Kidder, Peabody & Co. and with certain of the assets, for which we paid. We agreed to pay for the goodwill. Our only connection with the past was our agreement to pay for the goodwill, by paying 25 percent of our earnings until we had paid a total of \$2,000,000.

Acting Chairman KING. Well, did the new firm have the advantage of that \$10,000,000 revolving fund credit which was furnished by the banker?

Mr. GORDON. No, sir.

Acting Chairman KING. You released that, or rather, it was withdrawn from the fund?

Mr. GORDON. The old firm went into liquidation.¹

Acting Chairman KING. Proceed.

DISCUSSION OF KIDDER, PEABODY & CO.'S POSITION IN ILLINOIS BELL TELEPHONE CO. ISSUE—1931

Mr. NEHEMKIS. Now, Mr. Gordon, I am sorry you got into this thing. It is of no concern to us. But I presume you want to mention this as being the motivating factor which led you at this time to have a discussion with George Whitney.

Mr. GORDON. We had many discussions with George Whitney, and several other partners in J. P. Morgan & Co.

Mr. NEHEMKIS. Now, just so that we may move fast, I will ask simple questions and I think they will lend themselves to simple answers. In connection with a discussion growing out of, perhaps, this revolving fund, you discussed Telephone matters with Mr. Whitney; is that correct?

Mr. GORDON. Yes, sir; that is right.

Mr. NEHEMKIS. At this time, Mr. Whitney suggested to you that the old arrangement, which we have been discussing here for several days, whereby the New York group got 70 percent of the Telephone business and the New England group, under the leadership of Kidder, Peabody & Co., the old Kidder, Peabody, got 30 percent, wasn't satisfactory. Is that correct? I am asking for just a general answer.

Mr. GORDON. Just a minute, until I get that straight.

Mr. NEHEMKIS. Well—

Mr. GORDON. I think I can answer that by saying that the old position of Kidder, Peabody & Co. came up for discussion and we were advised that there would be a change if—

Mr. NEHEMKIS (interposing). Now, just a minute. You have indicated that you want a little help, being a novice in this witness business. Now, let me suggest how you can be helpful and I can be helpful to you. I will ask you a question and you answer it, and then stop.

¹ See extract from "memorandum of corrections" submitted by Arthur H. Dean, counsel to Mr. Gordon; appendix, p. 12316.

Acting Chairman KING. Answer "Yes" or "No" if you can. Counsel can ask you for an explanation if you haven't made it clear.

Mr. GORDON. All right, thank you.

Mr. NEHEMKIS. Now, you discussed, apparently at this time, the old arrangement, the 70-30 arrangement. You have indicated that Mr. Whitney suggested to you that the old 70-30 arrangement wasn't satisfactory, and that there would have to be another change, is that correct?

Mr. GORDON. I don't know that he said the old 70-30 arrangement; he said that the position that Kidder, Peabody had had in the past would be changed.

Mr. NEHEMKIS. Fine. Now, did you know at that time, and I refer to the time of your discussion with Mr. Whitney, what the old Kidder, Peabody distributing arrangement had been for telephone securities?

Mr. GORDON. I knew that Kidder, Peabody had distributed a certain number of—had a position in pieces of Telephone financing. I knew that Kidder, Peabody had wholesaled the bonds in New England.

Mr. NEHEMKIS. And Mr. Whitney at that time was suggesting that instead of having in effect two syndicate managers, one operating in New York, with jurisdiction over the entire country, and another syndicate manager operating in Boston, with jurisdiction over New England, that there would be one syndicate manager and that the books would be kept in one shop; is that correct?

Mr. GORDON. That's right.

Mr. NEHEMKIS. But the shop would not be Kidder, Peabody, but rather J. P. Morgan; is that correct?

Mr. GORDON. That is right, assuming that J. P. Morgan & Co. obtained the business from the Telephone Company.

Mr. NEHEMKIS. Well, they already had it.

Mr. GORDON. Not the future issues, they didn't have.

Mr. NEHEMKIS. Well, all right.

Acting Chairman KING. Did J. Pierpont Morgan have the wholesaling of issues in New England?

Mr. GORDON. Up to that time, I believe that the old firm of Kidder, Peabody had distributed in New England, wholesale, to the dealers, the Telephone securities.

Acting Chairman KING. All of them?

Mr. GORDON. As far as I know, sir.

Acting Chairman KING. J. Pierpont Morgan or other investment companies had nothing to do, then, with the distribution or sale of securities?

Mr. GORDON. The wholesaling.

Acting Chairman KING. The wholesaling?

Mr. GORDON. Yes; as far as I know.

Mr. NEHEMKIS. Now, Mr. Gordon, I want to leave this particular period—

Acting Chairman KING (interposing). Pardon me, but was that only Telephone securities?

Mr. GORDON. Yes; Telephone bonds.

Acting Chairman KING. Well, that is a security, isn't it?

Mr. GORDON. Yes; but not common stocks.

KIDDER, PEABODY & CO.'S POSITION IN ILLINOIS BELL TELEPHONE CO.

ISSUE—1935

Mr. NEHEMKIS. Now, I would like to leave the period now under discussion, of 1931, and go back to your earlier testimony, when you indicated that sometime in 1935, around the fall of the year, you had occasion to call upon Mr. Harold Stanley, the president of the newly organized firm of Morgan Stanley & Co. Incorporated. Did you not, at this time, when you discussed and reviewed with Mr. Stanley the old Kidder, Peabody arrangement for New England distribution, indicate that the new firm hoped it might get the same old arrangement, namely, distribution for New England?

Mr. GORDON. To the best of my knowledge, I think that the most we could have said was that since we weren't going to wholesale in New England, we hoped that we would have as good a position as possible to offset it.

Mr. NEHEMKIS. But at the time of your discussion with Mr. Stanley, you had no personal knowledge that there had been an understanding reaching back to the year 1920 between Mr. Morgan, Mr. Davison and Mr. Winsor, under which—

Mr. GORDON (interposing). Yes—

Mr. NEHEMKIS. Let me finish. Your old firm had been operating for over 10 years?

Mr. GORDON. We knew, when we took over the business of Kidder, Peabody & Co. that we weren't taking over any agreements, that we would have to stand on our own feet.

Mr. NEHEMKIS. Now, that isn't what I asked you. Now I am going to repeat it, because I think you are probably having a little difficulty with my questions. I am going to repeat what I indicated in my previous question. Let me repeat it for you and listen very carefully, if you will, Mr. Gordon.

At the time that you conferred with Mr. Stanley, in the fall of 1935, did you have any personal knowledge that there had been an agreement entered into in the year 1920 between J. P. Morgan, Henry P. Davison, and Robert Winsor, under which your old firm had been operating for at least 10 years? Now, what is your answer to that?

Mr. GORDON. I did not know of any such agreement, and once again, I knew that the business had been conducted along the lines which it had been conducted, but I did not know of any agreement.

Mr. NEHEMKIS. You knew, however, the end results of what may have been arrived at through an agreement?

Mr. GORDON. Yes; I knew what positions Kidder, Peabody & Co. had had in Telephone business in the past.

Mr. NEHEMKIS. In other words, no one ever told you specifically that on such-and-such a date, this was decided?

Mr. GORDON. No.

Mr. NEHEMKIS. Now, when you went to see Mr. Stanley, in an endeavor to have the new firm of Kidder, Peabody & Co. brought into the Illinois Bell issue, which everyone knew was coming at that time, didn't you claim for your new firm as much as you could get, namely, the distribution over New England?

Mr. GORDON. I think I have answered that, Mr. Nehemkis. We did not claim it, to the best of my knowledge.

Mr. NEHEMKIS. What caused you not to put forward that claim, which seems rather unusual?

Mr. GORDON. Well, we were realistic enough to know that we weren't entitled to it.

Mr. NEHEMKIS. Because of the——

Mr. GORDON (interposing). Because——

Mr. NEHEMKIS. Break-up of the old firm, new situations, and that it wasn't a sound arrangement?

Mr. GORDON. Yes; all of those reasons. We could recognize that.

Acting Chairman KING. You didn't expect to have that revolving fund of \$10,000,000 available for you, did you?

Mr. GORDON. No, sir. I hope never to have a revolving credit available to me.

(Senator O'Mahoney resumed the Chair.)

The CHAIRMAN. What do you mean by saying that you knew it wasn't a sound arrangement?

Mr. GORDON. As I said before, my expression has been loose, but I do not think that it is sound, under today's circumstances or under the circumstances prevailing in 1935, for an issue to be wholesaled by two different houses. Since the days in which Kidder, Peabody wholesaled the issue in New England, relatively it is not as important in financial markets as it was in those days. Furthermore, in the early days, Kidder, Peabody had a great deal to do with the Telephone business. The Telephone Company started in New England, and there was a great deal more interest in the Telephone business in New England than anywhere else. As the telephone spread over the country, that gradually wore off.

The CHAIRMAN. New England, then, became a small factor in the Telephone business and in the issuance and purchase of Telephone securities?

Mr. GORDON. Relatively; yes, sir.

Mr. NEHEMKIS. Now, after your conversation with Mr. Stanley, what was the final position that the new firm of Kidder, Peabody received in the first telephone offering, the Illinois Bell issue, under the leadership of Morgan Stanley?

Mr. GORDON. I believe that we received an underwriting interest of approximately 12 percent.

Mr. NEHEMKIS. And do you recall what the old underwriting interest had been of the Kidder, Peabody firm?

Mr. GORDON. As testimony brought before the committee has indicated, it had been 29¾ percent in the past.

Senator KING. You knew that from your studies of the twenties, did you not?

Mr. GORDON. Yes, sir.

Mr. NEHEMKIS. Of which the old firm of Kidder, Peabody retained 15 percent for itself?

Mr. GORDON. Yes, sir.

Mr. NEHEMKIS. No further questions, Mr. Chairman.

Senator KING. Was a much larger issue—strike that out.

The CHAIRMAN. I was called to the telephone, so I don't recall how long you were associated with the old company.

Mr. GORDON. I became a partner of Kidder, Peabody & Co. in March 1931. I had no prior connection with the old firm.

The CHAIRMAN. I see. So that whatever happened in the old firm is merely hearsay to you?

Mr. GORDON. Yes, sir; other than information we obtained from the records of the old firm.

The CHAIRMAN. Yes; but you have no personal experience?

Mr. GORDON. No; none whatsoever.

The CHAIRMAN. All right.

Mr. GORDON. May I say one word about groups in the investment banking business?

The CHAIRMAN. Surely.

Mr. NEHEMKIS. Before the witness does that, it occurs to me, I would like to have clarified one question which I inadvertently omitted to ask, and then, Mr. Gordon, you may proceed. You have probably learned, as a result of hearing the testimony of this morning and last Friday, that your old firm, under the agreement entered into at "the library" on May 5, 1920, had the right to approach the Telephone Company directly with J. P. Morgan & Co. for discussions. Did you know about that?

Mr. GORDON. No, sir; I did not.

Mr. NEHEMKIS. If you had known about it, it wouldn't have been necessary for you to see Mr. Harold Stanley; is that correct?

Mr. GORDON. I would not have gone to the Telephone Company directly. We did not think that we could head the Telephone Company business. I had known Mr. Gifford. He and I have been on the visiting committee of the Harvard Business School, but I did not think of talking to him about Telephone business.

The CHAIRMAN. Now, you are about to make some comment on your own behalf?

Mr. GORDON. In the formation, I would like to say a word or two about the formation of groups. In order to do a business effectively, it is necessary to get as good a team as possible, to select people with whom you can work effectively and sympathetically. When business was done under competition with competitive bids or done privately, houses would have to go out and form groups to do the business in the best possible manner. Several years ago the Potomac Electric Co., the Potomac Edison, I believe, wished to issue bonds, and according to the laws of the District of Columbia it had to call for competitive bids rather than to accept bids from a great many different houses with resultant expense of consulting with those houses. It said that it would accept bids from four different houses, and it selected four houses.

Our firm was one of the houses asked to form a group to make a bid. Each of the four groups, each of the four houses, formed groups to make the bids. Anybody who was not in any of those groups could not have bid, so that even under that system, you would have people who would be on the outside, perhaps, trying to get in.

We started business, as I have explained, in 1931. We have gotten into, I would say, forty to fifty new accounts in which the prior firm of Kidder, Peabody had no past connection. It seems to me that the Telephone business and the Telephone account are no more frozen for the best interests of the business, the Telephone business, than it should be. We started with 12 percent, we are now down to 6 percent. The 6 percent hasn't been taken from us because we haven't built up our distribution, because we have failed, it has been

taken from everybody in order to get more and more people into the business, in order to do the job more and more effectively.

The CHAIRMAN. Well, what assurance do you have that you can retain the percentage that you now have?

Mr. GORDON. We have no assurance, sir. Our only assurance comes from our doing a satisfactory job. If we ever fall down on our distribution, then we would expect to be reduced.

The CHAIRMAN. Well, who would exercise the judgment, the decision, upon which that distribution would be taken away from you?

Mr. GORDON. As long as the business came to the Morgan Stanley & Co., and as long as we were a member of the Morgan Stanley group, we would expect that the officials of Morgan Stanley would make that decision, unless the Telephone Company learned that we were distributing the bonds, perhaps cutting prices as we shouldn't, and should ask that we be excluded.

Today, more than ever, corporations, issuers, are selecting the members of the groups in order to make certain a satisfactory job is done.

Senator KING. They have got to be satisfied that the issue will be subscribed for and sold to the public generally?

Mr. GORDON. They have to be satisfied, I believe, sir, a group is formed which can make the best possible offer for the bonds and distribute it in the best possible manner.

Senator KING. Supposing there were no groups at all, just left to individual banks or investment companies, or corporations, or partnerships, to buy an issue of 50 or 60 million dollars; don't you think it would be very uncertain as to the consequences and the results?

Mr. GORDON. It would be very uncertain.

Senator KING. And unsatisfactory?

Mr. GORDON. And unsatisfactory, unless the issuer put such a price on his issue that it was obviously very attractive.

Now, in the case of the recent issue of the Southwestern Bell Telephone Co. bonds, which I believe were $3\frac{1}{4}$ -percent bonds, offered at $107\frac{1}{2}$ —my figures may be a little bit wrong—I don't believe that half of the bonds were originally distributed, and they subsequently, within a few weeks, went down to as low as $97\frac{1}{2}$. The loss fell on the underwriters and the members of the selling groups who had the bonds. Had the Telephone Company offered the bonds to the public, it would have had a great many unsold bonds on its hands, and had it been using the money for new construction, it wouldn't have had the money.

Senator KING. After all, it comes back to the question of the prestige and the financial ability of the group or an individual or a corporation to underwrite the bond issues?

Mr. GORDON. That is my conviction.

Senator KING. And if the public has confidence in Morgan or Kidder, Peabody, that they can absorb and dispose of an issue of \$40,000,000, why, probably they become the wholesalers.

Mr. GORDON. Yes, sir.

Senator KING. All right.

The CHAIRMAN. Are there any other questions?

Mr. AVILDSSEN. Mr. Gordon, is your firm, the new Kidder, Peabody, a corporation?

Mr. GORDON. No, sir.

Mr. AVILDSSEN. It is a partnership?

Mr. GORDON. Yes, sir.

Mr. AVILDSSEN. I notice that practically all the large underwriting firms that appeared before this committee are corporations. Halsey, Stuart is a corporation. I believe Morgan Stanley is a corporation. Is your firm an exception in that regard?

Mr. GORDON. No, sir; there are two groups; Smith, Barney & Co., for example, a large distributor, is a partnership, and there are a great many others. I would say that there are more partnerships than there are corporations.

Mr. AVILDSSEN. What is your opinion as to the advantages of a partnership over a corporation? I assume you feel there are advantages in it as compared with the corporation?

Mr. GORDON. We are members of the New York Stock Exchange, and as members of the New York Stock Exchange we must be a partnership.

Mr. AVILDSSEN. In other words, that is the primary reason for not being incorporated, is it?

Mr. GORDON. Yes, sir.

Mr. AVILDSSEN. Thank you.

The CHAIRMAN. Are there any other questions?

Mr. NEHEMKIS. I am through with the witness, sir.

The CHAIRMAN. Mr. Gordon, thank you very much.

Mr. GORDON. Thank you, sir.

Mr. HENDERSON. Mr. Gordon—

The CHAIRMAN. Oh, I beg your pardon. There is another question.

Mr. KADES. Mr. Gordon, does Kidder, Peabody & Co. do any State or municipal business?

Mr. GORDON. Yes; we do.

Mr. KADES. Do you arrange your groups the same way in that business?

Mr. GORDON. Yes; we do. When we are making a bid for an issue, and when we are heading the account, we form as strong a group as we can.

Mr. KADES. Do you bid after competitive bidding at public sale?

Mr. GORDON. On municipal sales?

Mr. KADES. Yes.

Mr. GORDON. Yes; we do.

Mr. KADES. And State issues?

Mr. GORDON. Yes; we do.

Mr. KADES. Substantially large issues?

Mr. GORDON. Yes; we do.

Mr. KADES. Is that an unsatisfactory method of doing business?

Mr. GORDON. It is quite a different method of doing business.

Mr. KADES. That is not my question.

Mr. GORDON. If it is a satisfactory way of doing a municipal business? Yes.

The CHAIRMAN. Any other questions?

Thank you very much, Mr. Gordon.

Mr. NEHEMKIS. Mr. Chairman, I would point out to you that the next witness is Mr. Harold Stanley, who begins a new phase of the

discussion. I would estimate that his testimony will take about an hour and a half. If it is the pleasure of the committee, I can go forward, or if it is the committee's pleasure to recess and start with Mr. Stanley in the morning, I am prepared to do that.

The CHAIRMAN. Well, speaking for myself, I would prefer to recess. Do I find any objection?

Well, then, without objection, the committee will stand in recess until 10:30 tomorrow morning.

(Whereupon, at 4 p. m., a recess was taken until Tuesday, December 19, 1939, at 10:30 a. m.)

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

TUESDAY, DECEMBER 19, 1939

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:40 a. m., pursuant to adjournment on Monday, December 18, 1939, in the Caucus Room, Senate Office Building, Senator Joseph C. O'Mahoney presiding.

Present: Senators O'Mahoney (chairman) and King; Messrs. Henderson, Avildsen, Hinrichs, O'Connell, and Brackett.

Present also: Ganson Purcell and Baldwin B. Bane, Securities and Exchange Commission; Willis J. Ballinger, Federal Trade Commission; John W. Hanes and Charles L. Kades, Treasury Department; Clifton M. Miller, Department of Commerce. Holmes Baldrige, Department of Justice; Peter R. Nehemkis, Jr., special counsel; David Ryshpan, financial analyst; W. S. Whitehead, security analyst; Lawrence Brown, investigator; and Samuel M. Koenigsberg, associate attorney, Securities and Exchange Commission.

The CHAIRMAN. The committee will please come to order.

Mr. Nehemkis, are you ready to proceed?

Mr. NEHEMKIS. I am, sir.

The CHAIRMAN. Will you call the first witness?

Mr. NEHEMKIS. Will Mr. Harold Stanley please take the witness stand?

The CHAIRMAN. Do you solemnly swear that the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. STANLEY. I do.

The CHAIRMAN. You may be seated, Mr. Stanley.

The Chairman desires to take note of the fact that the committee is honored this morning by the presence of Under Secretary Hanes, of the Department of the Treasury. The Secretary will be privileged to ask any questions, if he feels so moved.

Under Secretary HANES. Thank you, very much.

Mr. NEHEMKIS. Mr. Chairman, before proceeding with the examination of the witness, there is a bit of old business that should be taken care of. You may recall, sir, that in connection with the examination of Mr. Woods, I asked Mr. Woods certain questions pertaining to the stock holdings in other investment houses by himself and some of his associates.¹ Mr. Woods was not quite clear on the point, and we asked whether he would not be good enough to furnish the committee with that information. I am in receipt this morning of a letter from Mr.

¹ Mr. Woods' testimony appears in Hearings, Part 22.

Woods' counsel, Messrs. Sullivan & Cromwell, supplying that information, and I now ask leave of the committee that this information be offered in evidence, and that the reporter be instructed to place it at the appropriate place in the testimony.

The CHAIRMAN. Without objection, it is so ordered.

(The letter referred to was marked "Exhibit No. 1696" and is included in Hearings, Part 22, appendix, p. 11826.)

TESTIMONY OF HAROLD STANLEY, PRESIDENT, MORGAN STANLEY & CO. INCORPORATED, NEW YORK, N. Y.

Mr. NEHEMKIS. Mr. Stanley, will you state your full name and address, please?

Mr. STANLEY. Harold Stanley, 30 Sutton Place, New York City.

Mr. NEHEMKIS. What is your present business connection, Mr. Stanley?

Mr. STANLEY. I am president of Morgan Stanley & Co. Incorporated.

Mr. NEHEMKIS. Incorporated?

Mr. STANLEY. Incorporated.

Mr. NEHEMKIS. And prior to your present office, what was your previous business connection?

Mr. STANLEY. I was a partner of J. P. Morgan & Co.

Mr. NEHEMKIS. On what date did you become a partner of J. P. Morgan & Co., Mr. Stanley?

Mr. STANLEY. January 1, 1928.

Mr. NEHEMKIS. And on what date did you cease being a partner of J. P. Morgan & Co.?

Mr. STANLEY. September 13, 1935.

Mr. NEHEMKIS. And will you state on what date the investment banking house of Morgan Stanley & Co. Incorporated, was organized?

Mr. STANLEY. September 3, or September 5, 1935.

Mr. NEHEMKIS. When were, if you recall, the papers of incorporation filed?

Mr. STANLEY. On one of those dates I mentioned.

Mr. NEHEMKIS. September 3 or 5?

Mr. STANLEY. Yes. I can check that, if you like.

Mr. JOHN M. YOUNG (Morgan Stanley & Co. Incorporated). September 5.

Mr. NEHEMKIS. You accept the answer of Mr. Young as your answer?

Mr. STANLEY. I do.

ILLINOIS BELL TELEPHONE FINANCING, OCTOBER 1935

Mr. NEHEMKIS. Was not the first Telephone offering under the leadership of Morgan Stanley the Illinois Bell Telephone 3 1/2s of 1970, an offering of \$43,700,000?

Mr. STANLEY. It was.

Mr. NEHEMKIS. And was not that offering made on October 16, 1935?

Mr. STANLEY. At about that date. I can check that also if you like.

Mr. YOUNG. What date is that?

Mr. STANLEY. October 16.

Mr. YOUNG. The date is correct.

Mr. STANLEY. Correct.

Mr. NEHEMKIS. Do you happen to recall, Mr. Stanley, the date on which the registration statement for the Illinois Bell 3½s was filed with the Securities and Exchange Commission?

Mr. STANLEY. Well, 20 days prior to October 16, or 21 days.

Mr. NEHEMKIS. That would be September 26, 1935?

Mr. YOUNG. Approximately that.

Mr. NEHEMKIS. That was about 11 days after Morgan Stanley began doing business?

Mr. STANLEY. It was.

Mr. NEHEMKIS. Mr. Stanley, would you be good enough to tell me, generally speaking, about how long it takes to make up the data which goes into a registration statement?

Mr. STANLEY. Anywhere from 1 month to 3 months.

Mr. NEHEMKIS. And is that generally true of most registration statements of substantial issues, \$50,000,000 or \$40,000,000?

Mr. STANLEY. It is, if it is the first issue that that particular company has made.

Mr. NEHEMKIS. Would you enlighten me as to how it was possible to have a registration statement filed 11 days after your organization when usually there are many detailed problems in connection with the setting up of a new business enterprise?

Mr. STANLEY. I will be glad to.

Mr. NEHEMKIS. Would you?

Mr. STANLEY. The Telephone Company had been considering the question as to whether or not it could conform to the requirements of the Securities Act and whether or not it might do some financing. For some time prior to this date that you mentioned, in October, it had prepared—it had its own staff working on the matter for some months previous to that time, and the officials of the Illinois Bell Telephone Co. had been also working on it prior to that time.

Mr. NEHEMKIS. When you were a partner of J. P. Morgan & Co., had you had any discussions with Mr. Gifford or other officials of the American Telephone Co.?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. Relative to this issue.

Mr. STANLEY. Well, relative to the possibility of an issue.

Mr. NEHEMKIS. So that at the time you were still a partner of J. P. Morgan & Co. you were discussing prospective Telephone refunding.

Mr. STANLEY. I wasn't discussing it; I knew they were considering it.

Mr. NEHEMKIS. I may have misunderstood you, Mr. Stanley. I hope you will correct me. Did I understand you to say earlier in your testimony that you had had some discussion?

Mr. STANLEY. That I had some conversations.

Mr. NEHEMKIS. Conversations?

Mr. STANLEY. Right.

Mr. NEHEMKIS. And were those conversations relative to Telephone refundings?

Mr. STANLEY. Correct.

Mr. NEHEMKIS. And were those conversations more specifically with reference to the Illinois Bell offering subsequently under the leadership of Morgan Stanley?

Mr. STANLEY. They were.

Mr. NEHEMKIS. So that it is correct that while you were a partner of J. P. Morgan & Co., you did discuss with Mr. Gifford Telephone matters.

Mr. STANLEY. Well it is very hard for me to say what you mean by discussion. I knew they were considering an issue. They had told me so.

Mr. NEHEMKIS. Well, when you have a conversation with any company official about a prospective refunding, I assume you discuss details, what is to go in the registration statement, accounting matters, price matters, and things of that sort?

Mr. STANLEY. Very often; but in this particular case they did not discuss the details.

Mr. NEHEMKIS. What were the nature of your discussions?

Mr. STANLEY. They were considering the whole question of whether or not to do refunding. They were considering whether they could conform to the Security Act requirements and they were considering whether or not they would issue some securities in the fall.

Mr. NEHEMKIS. Can you tell me at this time, Mr. Stanley—

Mr. STANLEY (interposing). These conversations, I might say, were in August.

Mr. NEHEMKIS. Were in August?

Mr. STANLEY. Right.

THE ILLINOIS BELL TELEPHONE SYNDICATE

Mr. NEHEMKIS. Can you tell me at this time how many underwriters composed the group for the Illinois Bell Telephone issue?

Mr. STANLEY. Nine.

Mr. NEHEMKIS. Do you recall at this time, Mr. Stanley, the names of the underwriters who composed the group in the Illinois Bell issue?

Mr. STANLEY. Yes; I do.

Mr. NEHEMKIS. Will you state them, please?

Mr. STANLEY. Morgan Stanley & Co.; Kuhn, Loeb & Co.; Kidder, Peabody & Co.; Lee, Higginson & Co.—or Lee Higginson Corporation, I suppose—

Mr. NEHEMKIS. I think you and I understand each other.

Mr. STANLEY. First Boston Corporation; Brown Harriman & Co.; E. B. Smith & Co.; Bonbright & Co.; Mellon Securities Corporation.

Mr. NEHEMKIS. The last one is Bonbright?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. Mr. Chairman, you will recall that yesterday I asked you to examine a stipulation¹ which Mr. Charles Mitchell was good enough to make available to us, concerning certain documents which I would have occasion to introduce at various places in connection with the testimony. One of the documents covered by that stipulation is a letter, now in evidence, from which I should like to read

¹ "Exhibit No. 1691."

an appropriate statement. This is a letter from Mr. Mitchell to Mr. C. R. Blyth, dated September 26, 1935.

Mr. HENDERSON. Has that been identified?

Mr. NEHEMKIS. It has not been identified, sir. It is covered by a stipulation [reading from "Exhibit No. 1644"]:

Harold Stanley, of the new firm of Morgan, Stanley & Company, asked me to lunch with him yesterday and we had an hour and a half's discussion, the main points of which I am sure you will find of interest.

He opened the conversation by saying that he wanted to get the bad news off his chest first and he was doing that not only because of our relations, but because George Whitney, who had to leave town the night before for several days, asked him particularly to see me and explain the situation. The bad news was that we were not going to be in the underwriting of the Bell Telephone of Illinois. To make a long story short, they found that if they were to go beyond the very short underwriting list that they have, and are bound to more or less by past relations to the business, to a point of including us, they would necessarily have to include four or five firms more.

Mr. NEHEMKIS. Mr. Stanley, does Mr. Mitchell accurately reflect your attitude toward the Telephone business, that is to say, that you recognized that you were bound more or less by the past relations of different houses to the business?

Mr. STANLEY. It does not.

The CHAIRMAN. The letter¹ which you have just handed me, Mr. Nehemkis, is not signed. I take it, however, that it was signed by Mr. Mitchell?

Mr. NEHEMKIS. That is correct, sir.

The CHAIRMAN. Whose stipulation identified it?

Mr. NEHEMKIS. That is correct, sir.

The CHAIRMAN. And that is the letter of September 26, 1935, from C. E. Mitchell to Mr. C. R. Blyth?

Mr. NEHEMKIS. Yes, sir.

Mr. HENDERSON. Mr. Stanley, what was your answer to Mr. Nehemkis' question?

Mr. STANLEY. It does not correctly represent it.

Mr. HENDERSON. Even to the point of "more or less"?

Mr. STANLEY. Yes; I would say even to that extent.

Mr. HENDERSON. Even to that extent?

Mr. STANLEY. If you use the word "bound"; yes.

Mr. NEHEMKIS. Did Mr. Mitchell completely misunderstand you, sir?

Mr. STANLEY. I haven't any idea.

Mr. NEHEMKIS. In other words, if I now understand you correctly, the statement which I have just read from Mr. Mitchell to his west coast partner, reporting a conversation with you, is inaccurate?

Mr. STANLEY. I should say so; yes.

Mr. NEHEMKIS. I am perfectly willing to accept your word for that, Mr. Stanley, with one comment. It seems to me, roughly—

Mr. STANLEY (interposing). I am glad that you accept my word.

Mr. NEHEMKIS. I do, sir, in every respect, but I would merely observe that it seems rather difficult to believe that a responsible member of the financial community would so thoroughly misunderstand an old friend.

¹ "Exhibit No. 1644."

Mr. STANLEY. Well, Mr. Nehemkis, there has been a lot of talk and some testimony I have heard about the use of words. Certainly, we considered the past connections of people with the Telephone Company, but as far as being bound, there was nothing bound at all.

Mr. NEHEMKIS. Yes. Well, I accept your explanation.

Mr. STANLEY. Well, I hope so.

Mr. NEHEMKIS. It is perfectly all right.

The CHAIRMAN. You object to the strict definition of the word "bound"?

Mr. STANLEY. Correct.

The CHAIRMAN. That is the interpretation that you desire to avoid?

Mr. STANLEY. There wasn't any obligation to anybody.

The CHAIRMAN. Was there such a conversation?

Mr. STANLEY. I had a conversation with Mr. Mitchell, yes.

The CHAIRMAN. And in that conversation, did you tell him that Blyth & Co. would not be included in this financing?

Mr. STANLEY. I did.

The CHAIRMAN. Did you intimate to him at that time that the reason that that firm was not to be included was that it would make necessary, or possibly necessary, the inclusion of other firms that had not previously been allowed to participate in the issues?

Mr. STANLEY. There was nothing necessary about it, Senator. That goes back to what the job and function of a manager of a syndicate is. When we were selected by the Telephone Company to manage this financing, they looked to us to have a suitable group of people do it, and have the issue a success. The inclusion of the people and our decision as to whom to include covers a variety of things, I mean, their capital, their standing, their judgment of markets, their judgment of prices, and their distributing ability, and the whole general question of all the factors that any one house would bring into a piece of business; and we considered what we thought was the suitable group to be in this business, who could do it adequately.

The original purchasers, who are called now the underwriters—I mean, underwriter today means the man who buys direct from the company with a lot of people or several other people. In this case, there was no real underwriting; it was simply a purchase, and we decided this was an appropriate and suitable group to do the business properly, and there wasn't any need of considering everybody who was eligible. There were a lot of other people who might perhaps have been worthy people or able people to be in the business, but they weren't needed. We ourselves felt that we didn't want to have a large underwriting group in this issue. Remember, this was a sort of time of flux in the business, it was soon after the markets were opened, there were a lot of new firms. We thought it was best in this thing not to have too big a syndicate. We weren't afraid of the issue, or that it had to be spread around too far, but we did decide to have a very big selling group. So we had these nine underwriters and five-hundred-odd other people sell the bonds all over the country, and they were scattered in Chicago, Ill., California, everywhere. But we thought these people were the appropriate people. Different elements were considered in the selection of each fellow; one man for one reason or a combination of reasons, and another man or another

firm for another combination of reasons. And certainly I considered the past connection of Kidder, Peabody & Co.; Kuhn, Loeb, to the Telephone business, or their predecessor firms, in the case of Kidder. But there was nothing bound, no obligation to anybody.

FORMER MEMBERS OF TELEPHONE GROUP AFFECTED BY BANKING ACT OF 1933

Mr. NEHEMKIS. Shall we proceed?

Mr. Stanley, the previous testimony has shown that the Telephone group from the year 1920 up to the issue that we are now discussing, was composed of the following firms: Kidder, Peabody; J. P. Morgan; First National Bank; National City Bank; Kuhn, Loeb & Co.; Harris, Forbes & Co.; Lee Higginson Corporation; Guaranty Trust Co.; Bankers Trust Co. Now, you indicated a moment ago what I think my next question will cover. As a result of the Banking Act, did not the First National Bank, National City, the Guaranty Trust, and the Bankers Trust cease to have any participation in underwriting matters?

Mr. STANLEY. They did.

Mr. NEHEMKIS. However, the houses still in existence, and which did have a relation to the business, were the following: Lee Higginson Corporation; Kuhn, Loeb & Co.; First Boston (having succeeded to the goodwill and business of Harris, Forbes & Co.); Kidder, Peabody & Co. Is that correct, Mr. Stanley?

Mr. STANLEY. If I understand your question correctly, those firms who were in business in 1935, or their predecessors, had some connection with Telephone business in the past.

Mr. NEHEMKIS. That's right. And those four houses were included in the first Telephone offering under the leadership of Morgan Stanley?

Mr. STANLEY. They were.

Mr. NEHEMKIS. Now, the new houses that were included in this business were Brown Harriman & Co (then Brown Harriman, now Harriman Ripley & Co., Inc.)?

Mr. STANLEY. Right.

Mr. NEHEMKIS. And Edward B. Smith & Co.?

Mr. STANLEY. Correct.

Mr. NEHEMKIS. I don't know whether you were here at one of the earlier sessions, Mr. Stanley, but if my memory serves me correctly, Mr. Boyenizer, of Kuhn, Loeb, testified that his firm recognized Brown Harriman as the heir to the National City Co. Did you likewise regard Brown Harriman as the heir to the National City Co.?

Mr. STANLEY. No; not any more than—

Mr. NEHEMKIS (interposing). Excuse me, sir.

Mr. STANLEY. Not any more than I consider anyone the heir of anybody else, we or anybody else.

Mr. NEHEMKIS. Yes. Do you regard E. B. Smith & Co. as the heir of the Guaranty Co., or is your answer the same for that?

Mr. STANLEY. It is the same.

Senator KING. I suppose you use the word "heir" in the same sense it would be used in legal terminology in connection with estates?

Mr. NEHEMKIS. Not quite, sir. No, I used it in a much more popular sense than that.

Senator KING. Popular or unpopular?

Mr. NEHEMKIS. Well, it may be both before these hearings are concluded.

Mr. HENDERSON. Senator, when we had Mr. Bovenizer of Kuhn, Loeb on the stand, he readily acknowledged that he did regard them as the heirs, and counsel has asked this witness whether he had the same view.

Mr. NEHEMKIS. In the letter from Mr. Mitchell which is in evidence, there appears the following sentence, Mr. Stanley [reading from "Exhibit No. 1644"]:

For this reason, and the added reason that they are eliminating completely four houses who have heretofore been connected with the business, they felt that they were under the necessity of not including our name.

Mr. Stanley, were the four houses which you felt constrained to eliminate the following: Estabrook & Co.; R. L. Day & Co.; F. S. Moseley; Hayden, Stone & Co.?

Mr. STANLEY. I didn't feel constrained to eliminate anybody. I don't know where the use of the word "constrained" comes from. They were both excluded, but there was no necessity or anything of that kind. Those houses were not included who had been included in the previous business.

Mr. NEHEMKIS. Do I understand you correctly to have replied to my question that the four houses whose names you eliminated were not included?

Mr. STANLEY. Not as underwriters.

Mr. NEHEMKIS. Now, these four houses were still in existence and still able to underwrite, and these four houses were members of the old Kidder, Peabody New England proprietary group, so that if I understand what transpired at this time, Mr. Stanley, your firm declined to recognize, insofar as the new Kidder, Peabody firm was concerned, that the agreement of May 5, 1920, was binding, or that the interest of the New England group on original terms in the A. T. & T. financing was binding, or the right of the new Kidder, Peabody firm to share in the management fee or the right of the new Kidder, Peabody firm to talk to the company?

Mr. STANLEY. Well, that is an awfully long question.

Mr. NEHEMKIS. You may have all the time you wish, Mr. Stanley, to respond to it.

Mr. STANLEY. I will answer it, but I think I perhaps can get what you are after. The consideration we gave in 1935 to including different houses in the proposed Illinois Bell issue which was made in October was based on what we thought their relative contribution to the business could be at that time. We were not concerned with past history, we were looking at conditions that existed in 1935, and I and my associates decided who would be the underwriters in that issue, as I have said, based on what we thought they could contribute to the good of the business at that time.

Senator KING. The first part of your question assumes that those four houses were competent, Mr. Nehemkis, and had the necessary standing to underwrite. Did you desire to commit him to that statement of yours as a question of fact?

Mr. NEHEMKIS. I think the witness—

Senator KING (interposing). It seems to me you ought to have asked him if they were competent. You state that they were, you see.

Mr. NEHEMKIS. I stated that they were in existence.

Senator KING. You assumed that they were in the first part of your question, you assumed that they were in a position to do that. I think he ought to be permitted to state that, rather than to accept your statement.

Mr. NEHEMKIS. Let me ask the witness the question you suggest. I thank you, Senator King, for proposing it.

Are you clear, Mr. Stanley, as to Senator King's question? As I understand it, it is, were these four houses, Estabrook & Co.; R. L. Day & Co.; F. S. Moseley & Co.; Hayden, Stone & Co.; former members of the old New England proprietary group, competent to engage in underwriting at the time of the offering of the Illinois Bell issue?

Mr. STANLEY. Well, you combine a lot of things, Mr. Nehemkis. There has been a lot of testimony about the proprietary group, which I am not going to try to comment about. I say this, and I would like to say to Senator King, that I did not understand that I was accepting the other question in the form given, because I didn't. I don't admit that the question was correct or the assumptions were correct, necessarily, but I will say in answer to the last question, eliminating all of the questions of groups and things of that kind, that those four firms you mentioned were in previous Telephone business during the period 1920-30.

Mr. NEHEMKIS. And those four firms, for purposes of this testimony, were not included in the Illinois Bell offering of '35?

Mr. STANLEY. As underwriters, no.

Mr. NEHEMKIS. As underwriters?

Mr. STANLEY. No.

Mr. AVILDSSEN. I have a question at this point, Mr. Chairman, if I may ask it.

Mr. NEHEMKIS. I wonder if the witness has really responded to Senator King's question.

Senator KING. I think he has.

Mr. AVILDSSEN. I notice, Mr. Nehemkis, in this same letter I have read from, that the very next sentence after the one I just read reads as follows [reading from "Exhibit No. 1644"]:

He—

Meaning Mr. Stanley—

assured me at the same time that this would not in any sense be considered a telephone group, that they intended to consider each individual business separately, and as an illustration, indicated that if they were to do a piece of Pacific Telephone business, they would certainly see that we were in a strong position in the underwriting.

Mr. NEHEMKIS. That would have confirmed what Mr. Stanley has been saying.

Mr. AVILDSSEN. Is that correct, Mr. Stanley?

Mr. STANLEY. I remember talking to Mr. Mitchell about Pacific Telephone at that time. I don't think I was as definite about the fact that he would be included, but certainly he would be considered in Pacific Telephone because his firm is a west-coast firm.

Mr. NEHEMKIS. Mr. Chairman—

Mr. HENDERSON. I don't believe that covers, Mr. Stanley, the import of the sentence Mr. Avildsen has read.

Mr. STANLEY. I see.

Mr. HENDERSON [reading from "Exhibit No. 1644"]:

He assured me at the same time that this would not in any sense be considered a telephone group, that they intended to consider each individual business separately.

Mr. STANLEY. Undoubtedly I said that to Mr. Mitchell.

Mr. HENDERSON. Therefore, you remember saying this, but you don't remember saying that you were bound to consider the past relations, and you don't remember that you said you were eliminating completely four houses?

Mr. STANLEY. Well, I may very well have said that these four houses were not included, but I don't remember anything about the latter part of that sentence, that they were under the necessity of not including Mr. Mitchell. Do you see?

Mr. HENDERSON. Yes.

Mr. NEHEMKIS. Mr. Chairman, I have a number of exhibits which I propose to offer in the next few minutes. Unfortunately, the member of my staff who was to have identified them was taken ill. May I suggest for your consideration that they be marked at this time subject to definite identification tomorrow, or as soon as the staff member has regained his health.

The CHAIRMAN. These are exhibits secured by a member of the staff who, by reason of illness, is not able to be here this morning?

Mr. NEHEMKIS. That is correct, sir.

The CHAIRMAN. Unless there is objection, they may be so marked and identified in the future. Do you intend to submit them to the witness?

Mr. NEHEMKIS. They do not come from his particular office.

The CHAIRMAN. But do you intend to submit them to him?

Mr. NEHEMKIS. He will have copies, just as we all do.

I now ask in accordance with the arrangement just proposed, that a memorandum dated New York, September 27, 1935, for N. P. Hallowell from E. N. Jesup, of the investment banking house of Lee Higginson Corporation, be marked subject to the terms just indicated.

The CHAIRMAN. The memorandum may be so marked.

(The memorandum referred to was marked "Exhibit No. 1697" and is included in the appendix on p. 12240.)

Mr. NEHEMKIS. I read to you, Mr. Stanley, a memorandum purporting to be a conference which you had with Mr. Jesup in connection with the Illinois Bell offering which we are discussing.

Harold Stanley emphasized the fact—

The CHAIRMAN (interposing). Mr. Jesup was the author of that memorandum? Only initials appear upon the memorandum.

Mr. NEHEMKIS. "E. N. J." is Mr. E. N. Jesup [reading from "Exhibit No. 1697"]:

Harold Stanley emphasized the fact that these interests were for this piece of business only and they were not at the moment forming a telephone group.

Apparently Mr. Jesup correctly understood you, Mr. Stanley.

Mr. STANLEY. Undoubtedly. Certainly I don't know what "at the moment" means, but we certainly were not forming a Telephone group.

Mr. NEHEMKIS. Mr. Chairman, may it please the committee, pursuant to the same arrangement, I ask that there be marked a memo-

random by H. M. Addinsell, chairman of the executive committee of The First Boston Corporation, dated September 30, 1935.

The CHAIRMAN. The memorandum may be so marked.

(The memorandum referred to was marked "Exhibit No. 1698" and is included in the appendix on p. 12240.)

Mr. NEHEMKIS. Mr. Addinsell's memorandum of a conference with you on or about the same time, referring to the Illinois Bell offering now under discussion, reads as follows [reading from "Exhibit No. 1698"]:

The Mellon Securities will have an interest of \$2,000,000 and Bonbright will have an interest of \$1,000,000 but neither of these last two names will appear in the advertisement. * * *

While Lee Higginson will appear technically ahead of us in spite of the fact that they have a smaller interest, I assume that the reason for this is that the first four names are the only names that appeared as such in the former advertising of this issue.

Jumping ahead in that memorandum, the first four names are: Kuhn, Loeb; Lee Higginson; Kidder, Peabody; and First Boston. Continuing with the memorandum [reading further from Exhibit No. 1698]:

The old Harris Forbes interest in Bell Telephone financing was approximately 5%, and it will be seen under the new arrangement, First Boston will have 10% of the entire issue, or 10.59% of the \$42,500,000 to be sold by the underwriting syndicate.

Mr. Stanley said that these percentages did not necessarily constitute a precedent for any other Bell Telephone financing that might be done, because in special cases other bankers might have to be introduced, etc.

Mr. Stanley, did Mr. Addinsell correctly understand that last statement I read?

Mr. STANLEY. It is very hard to follow as you read. What is the wording, that the other banks would have to be—

The CHAIRMAN. Please hand the exhibit to the witness.

Mr. NEHEMKIS. Do you have a copy of it?

The CHAIRMAN. No; I haven't.

Mr. NEHEMKIS. All right. Now will you glance at the last paragraph of the memorandum you have, Mr. Stanley, and tell me whether that, generally speaking, correctly interprets the purport of your conversation at the time with Mr. Addinsell?

Mr. STANLEY. Just let me take a minute to see this. Will you repeat that question, please?

Mr. NEHEMKIS. Will the reporter please read the last question?

(The previous question was read.)

Mr. STANLEY. Well, I think it gives it in substance, excepting that I don't know what Mr. Addinsell meant by other bankers having to be included in the future, perhaps. I undoubtedly told him other bankers might be included, but there was no obligation to include them. I can't imagine what obligation there could be, unless the company wanted other people included, but I only question the words "have to be."

The CHAIRMAN. The whole issue, as I take it, so far as your testimony is concerned, merely has to do with the interpretation of the word, whatever it may be, that might be taken by some persons to indicate a legal obligation?

Mr. STANLEY. Right.

The CHAIRMAN. You desire to have it understood that there was no legal obligation?

Mr. STANLEY. Correct, sir.

The CHAIRMAN. That applies to the use of the word "proprietary" which came up so frequently in the last few days; it applies to the word "bound" and it applies now to this phrase. But, on the other hand, you do not question the fact that there existed in you or in your predecessors the absolute power to say who should be in this financing group or underwriting group, and that you exercised that power.

Mr. STANLEY. Well, without attempting to go back, Senator, to the question of the firm of which I was formerly a member, because that I do not want to testify about because there are other witnesses who are now members of the firm who can so testify—that was gone into at quite some length yesterday. But so far as Morgan Stanley & Co., formed in 1935, was concerned, I would like to explain a little bit about how it came about that we were asked to decide, asked by the Telephone Co. to decide who should be included.

Now the Telephone Co., as I have testified earlier, had been considering the question of financing. In August of 1935 when they learned that Morgan Stanley was going to be formed, Mr. Gifford and Mr. Cooper said they might want to talk to us about the financing that they had been working on with help, after that. They talked to us about that after we were formed. That was in September and the issue was made in October.

They said they would like to look to us for the proper distribution of these securities, and they would leave to us as to who should be selected, the appropriate and adequate people, and they would charge us with the responsibility of getting the right people.

They did not know the people in the business and we did. We should manage this for them. But they would hold us responsible for the results, and they made us guarantee the performance of all of these underwriters, and they have made us do it ever since on each issue, which involves various things. I mean, we assume, we believe, very much greater liability, civil liability in the Securities Act than we would do otherwise if we only took a part instead of guaranteeing the whole, but we became bound for the solvency of the people we select and their performance.

Senator KING. Whoever you select then, you guarantee their solvency and their ability to handle whatever allocation of the bonds was made to them?

Mr. STANLEY. That is correct.

ALTERNATIVE METHODS OF SELLING SECURITIES

The CHAIRMAN. The question of public interest, which is involved so far as I am concerned in all this testimony, is merely the comparative value of the two methods of disposing of securities of a particular type, namely, the securities of large businesses which occupy a public relation like a railroad or a telephone company.

Now, you are aware that in 1926 the Interstate Commerce Commission handed down a decision requiring the sale of equipment trust certificates at public bid.

Mr. STANLEY. I am.

The CHAIRMAN. The Interstate Commerce Commission rendered that decision presumably in the belief that that was the more desirable way of disposing of the securities of such companies.

Now, here, on the other hand, we have illustrated over a long period of years the sale of the securities of the Telephone Co. than which it may be presumed there is not a stronger industrial organization in the country if not in the world.

Mr. STANLEY. I think that is quite true.

The CHAIRMAN. And that company's securities are disposed of without competitive bidding by turning the whole job over to J. P. Morgan for a number of years prior to the passage of the Banking Act, and from that time on apparently to your company.

Mr. STANLEY. Well, Senator, on that I would like to say this, sir. The question of competitive bidding is a subject which I should like to go into and talk upon at length, because I have thought about it a lot. But—

Mr. HENDERSON (interposing). Mr. Chairman, on the matter of competitive bidding, counsel announced at an earlier session that the staff had considerable information prepared for a hearing on that subject, which is very vital, and hoped that the committee would have time to hear at a later date.

Mr. STANLEY. But to comment more—

Senator KING (interposing). I don't think that would preclude Mr. Stanley giving his views as to whether or not the policy adopted and which was participated in was a satisfactory one to secure the best results.

Mr. STANLEY. I would like to comment briefly, and in detail as much as you have time for later, on—

The CHAIRMAN (interposing). But in propounding the question, Mr. Stanley, it was not my desire particularly at this time to open up a debate as to the comparative merits of the two plans, but merely to make clear that that is the division.

Mr. STANLEY. Right. And without attempting to go into detail, I—

Mr. HENDERSON (interposing). Before Mr. Stanley goes into that, may I make a—

The CHAIRMAN (interposing). Mr. Stanley was making a statement or a comment not upon the merit now, but in direct response to my question.

Mr. HENDERSON. I would like to make a statement. I think the record ought to note, Mr. Chairman, so far as I am concerned, that at the present time the S. E. C. has before it an issue which has been argued but not disposed of, involving some of these questions and involving Morgan Stanley; therefore, as I see it, I am precluded, of course, from participating in this discussion because we sit in quasi-judicial capacity.

I should like the record to note also that none of the questions which counsel in this hearing will raise with Mr. Stanley have been suggested by me. Is that correct, Mr. Nehemkis?

Mr. NEHEMKIS. Absolutely correct, Mr. Commissioner.

Mr. HENDERSON. None of the questions have I directed. And therefore, they are not to be taken as having any relation at all to the issues which are before the S. E. C. in the instant case.

The CHAIRMAN. I take it that the S. E. C. in presenting this particular study is not attempting to bring in any questions which is pending before the Commission on this other issue of which you speak?

Mr. HENDERSON. Not only that, but counsel's brief was prepared before the application of the declarant was filed.

Mr. NEHEMKIS. As Mr. Stanley knows, we have been living in his shop for months.

Mr. STANLEY. Yes; I know it.

The CHAIRMAN. He says that with an air of resignation. [Laughter.]

Mr. STANLEY. Well, Senator, to comment more appropriately on what you just said a moment ago about the two methods of doing business, I would like to say just this, without going into the other matter which Mr. Henderson referred to at all: Of course, corporate securities can be sold by competitive bidding; there is no question about it. But in my opinion—and I am not trying to argue it now—it is very much better in the interest of the borrower and of the investor not to sell issues through competitive bidding. If you do it by competitive bidding, there are a lot of things that come up, points that I think are bad. I mean, it is sort of a catch-as-catch-can proposition—casual intermittent connections, the company does not get the benefit of professional expert advice, the banker either has to take it as is, as the company has it, or pass it up.

It tends to overpricing, tends to poorer character of securities, tends to eliminating the small dealer in my opinion, because the people who bid competitively have got to have capital; they have got to pay high prices, and I believe that it eliminates the small dealer and will concentrate the business in the hands of the large dealers more than today.

Also, you are going to have groups in competitive bidding, because anybody can't come along and do it. You have the group question, whatever that is; if it is a matter of being democratic, it will be just the same as it is today.

Now, I have thought a great deal about it, and I would like to come back to it later on if you will permit me and if you have time, but I would like to also comment on one other thing that you said, sir, and the same statement or a similar statement was made in the opening statement, I think, yesterday morning, namely, that during the period of 1906, I think, to 1939, the Telephone Company had done all of its bond business with J. P. Morgan & Co. and associates, or Morgan Stanley & Co. and associates.

Aside from the transactions prior to 1935 which Mr. Whitney referred to, of various bond issues and loans that they did not handle with J. P. Morgan & Co., there were a very large amount of convertible bonds and stock that were sold by the company without the intervention of bankers at all, which frequently were sold to their own stockholders, running to a very large amount of money.

I would like to correct what may be an erroneous impression inadvertently made by Mr. Henderson in a previous statement, probably referring to public offerings, by saying that since Morgan Stanley & Co. has been in business, the Telephone Company and subsidiaries, or, rather, it was only subsidiaries, and certain companies that are

considered as part of the Bell System that are not controlled by it but of which the Telephone Company has 20 or 30 percent stock interest have sold a total of \$150,000,000 of securities direct to insurance companies without bankers at all, so they have tried alternative methods and have not confined themselves to one method.

The CHAIRMAN. \$150,000,000?

Mr. STANLEY. Yes, sir.

The CHAIRMAN. Out of a total of?

Mr. STANLEY. Well, we have managed issues of \$580,000,000 I think, and in addition they have sold \$150,000,000 since 1935. I don't think this really bears on it very much, but Mr. Young tells me that the amount they have sold to their pension fund is about \$60,000,000 additional.

UNDERSTANDING AMONG INVESTMENT BANKERS WITH RESPECT TO EXISTENCE
OF TELEPHONE GROUP

Mr. NEHEMKIS. Mr. Stanley, from the three documents ¹ which I had occasion to read to you, it would appear that you were very anxious that the arrangement for the Illinois Bell offering should not constitute a precedent for the future interests in that business, is that substantially correct, Mr. Stanley?

Mr. STANLEY. I never made commitments for the future to anybody anyway, but at that particular time, as I have said before, the industry, the investment banking business, was changing. People were very anxious to obtain a standing, to become established, these new firms, and were very eager to get into good business. We were equally anxious and definite in our minds that we were not going to let them get any kind of position in the future.

Mr. NEHEMKIS. Is that the reason for your not desiring to establish a group or create an impression that there might be a precedent?

Mr. STANLEY. That is one reason, but as I said, I never made commitments for the future to anybody anyway.

Mr. NEHEMKIS. Mr. Stanley, I had occasion to refer to a memorandum of the telephone conversation between you and Mr. Jesup. I am going to read to you another statement that appears in Mr. Jesup's memorandum.

You will recall, Mr. Chairman, that this is identified pursuant to your arrangement with me. Mr. Jesup said as follows [reading from "Exhibit No. 1697"]:

My guess is that they do not want to be committed to this group in these amounts for future telephone business, owing to the possibility of some of the banks being able to underwrite in the future. If this came about, I would imagine that they might have to include the First National, Guaranty and National City.

Could Mr. Jesup have understood you correctly, or was that your impression at the time?

Mr. STANLEY. That was what Mr. Jesup said.

Mr. NEHEMKIS. That was not possibly your view, or one of the reasons why you were not anxious to establish a group?

¹ "Exhibits Nos. 1644, 1697, and 1698."

Mr. STANLEY. Well, my reasons, very simply, were that we were just considering this transaction, and we were not at that time making any plans for the future.

Mr. NEHEMKIS. Mr. Chairman, in accordance with our prevailing understanding, I should like to offer a memorandum by H. M. Addinsell, whom I have previously identified to the committee, dated November 20, 1935, with reference to the Southwestern Bell Telephone Co. \$45,000,000 offering. May it be marked, sir?

The CHAIRMAN. It may be marked.

(The memorandum referred to was marked "Exhibit No. 1699" and is included in the appendix on p. 12241.)

The CHAIRMAN. Are the letters to be marked, all of those?

Mr. NEHEMKIS. You want them marked at one time?

The CHAIRMAN. Suppose we have them all marked, and that will dispose of them.

Mr. NEHEMKIS. All right.

The CHAIRMAN. That includes all of these exhibits that are to be identified by the staff member when he returns?

Mr. NEHEMKIS. Correct, sir.

(The documents referred to were marked "Exhibits Nos. 1700, 1701, and 1702" and are included in the appendix on pp. 12242-12243.)

Mr. NEHEMKIS. Mr. Stanley, may I read to you a rather brief statement of Mr. Addinsell in which he says [reading from "Exhibit No. 1699"]:

All participants giving up pro rata to them * * *

I take it this indicates that in spite of your strong admonition, some of the banking houses still believed there was a group and that they had definite claims on the business. Suppose I read you the whole statement [reading from "Exhibit No. 1699"]:

We are offered a \$4,000,000 interest which is a slight reduction from our proportionate interest in the Illinois Bells and is occasioned by the fact that Dillon Read will be introduced into the business (in a non-appearing position) and all participants are giving up pro rata to them. The amount of their interest is not stated. Mr. Morgan is sending us the proposed registration statement—

And so forth.

Now, I repeat my question, if I may, Mr. Stanley, that language seems to indicate that despite your very strong admonition that there was no group, some of the houses still believed that there was a group and that they had some claim on the business, and it would further indicate, Mr. Stanley, that you apparently were forced to recognize the existence of a group since you cut the participants pro rata?

Mr. STANLEY. Well, Mr. Nehemkis, I don't see where you get the idea that we were forced to give, to start with. I don't know what the other people thought. I thought you introduced a memorandum¹ from Mr. Addinsell saying there was no precedent.

Mr. NEHEMKIS. I have, but this is a subsequent memorandum² on the Southwestern Bell issue dated November 20, 1935.

Mr. STANLEY. But what of it?

Mr. NEHEMKIS. I am asking for your comment. Here is a responsible member of the investment banking community. You have been very

¹ "Exhibit No. 1698."

² "Exhibit No. 1699."

careful to admonish the various houses that there was no precedent. Apparently, Mr. Addinsell, a responsible banker, believes that there was a group. You seem to indicate, in spite of your own statements, that there was a group, because it was necessary to cut the group pro rata.

Mr. STANLEY. I wouldn't think that his memorandum indicates he thought there was a group. What he is saying is that there is a readjustment of the amounts these people had, different from the time before.

Senator KING. Has this witness, the person who wrote the letter, testified?

Mr. NEHEMKIS. No, sir. This is a memorandum by Mr. H. M. Addinsell.

Senator KING. How would that bind Mr. Stanley?

Mr. NEHEMKIS. I am not saying that it does.

The CHAIRMAN. He doesn't contend that it binds Mr. Stanley, and of course it doesn't, but it is merely an expression of opinion, that is all, so that any question based upon it would be an argumentative question.

Mr. NEHEMKIS. Correct.

Mr. STANLEY. I think all he is saying is that the same people are going to be in this Southwestern issue plus another one who wasn't in the previous issue.

Mr. NEHEMKIS. Mr. Chairman, may I at this time offer in evidence a table entitled "Relative Participations in Security Issues of American Telephone and Telegraph and Associated Companies, 1935-39." The source of the data which appears in this table was compiled from the registration statements filed with the Securities and Exchange Commission relating to the respective issues on file with that Commission.

The CHAIRMAN. It may be admitted.

(The table referred to was marked "Exhibit No. 1703" and is included in the appendix on p. 12244.)

Mr. NEHEMKIS. In the same connection, Mr. Chairman, I also offer in evidence a table upon which the one you now have before you was predicated. This table likewise is compiled from the information appearing in the registration statements on file with the Securities and Exchange Commission. However, I do not intend to discuss the second table which I request be admitted.

The CHAIRMAN. The table may be admitted.

(The table referred to was marked "Exhibit No. 1704" and is included in the appendix on p. 12245.)

PERCENTAGE PARTICIPATIONS OF PRINCIPAL MEMBERS OF TELEPHONE GROUP
IN RELATION TO PARTICIPATION OF MORGAN STANLEY & CO., INCORPORATED, 1935-39

Mr. NEHEMKIS. Does Mr. Stanley have a copy of this table?¹ Here is one, Mr. Stanley. A word concerning this table and why it is being offered at this time. This table was prepared, may it please the committee, by dividing the amount taken by each underwriter by the amount taken by Morgan Stanley; in other words, a series of fractions: Kuhn, Loeb over Morgan Stanley equals Kuhn, Loeb's amount; Kidder, Peabody over Morgan Stanley would equal Kidder.

¹ Referring to "Exhibit No. 1703."

Peabody's amount, and so on. In each Telephone issue you will observe, Mr. Chairman, that Kuhn, Loeb gets exactly 50 percent of whatever is taken by Morgan Stanley. You will further observe, may it please the committee, that Kidder, Peabody's participations have been exactly 40 percent, or very close to 40 percent, in all issues other than Pacific Telephone, in which issue Kidder, Peabody received 33 $\frac{1}{3}$ percent. You will further note, Mr. Chairman, that Lee Higginson's participation in 7 out of 11 Telephone issues has been exactly 50 percent of the amount taken by Kidder, Peabody. Now, you will note on the table, there next appears a group of houses, First Boston, Brown Harriman, E. B. Smith. These three houses have all obtained precisely the same amounts beginning with the Pacific Telephone and Telegraph 3 $\frac{1}{4}$ s of April 1936. You will further note, Mr. Chairman, that a new firm appears as a participant in the issue, Harris, Hall & Co. This firm thereafter appears in all subsequent issues. Harris, Hall & Co.'s participation would appear to have been ceded to it by First Boston. From this time on First Boston gets the same percentage as E. B. Smith & Co. and Brown Harriman, and this would appear to be the explanation for First Boston's obtaining the same percentage as E. B. Smith and Brown Harriman beginning with the Pacific Tel. & Tel. issue, whereas in the prior issues First Boston's percentage exceeded that of the other two houses.

Now what is the moral to be drawn from this chart? Yesterday, you will recall, Mr. Chairman, that there was offered a table¹ which showed that in all Telephone issues headed by J. P. Morgan & Co., from 1920 until 1930, the percentage amounts taken by the group of houses in that syndicate were absolutely static, no variation. This chart was prepared, Mr. Chairman, to show whether or not there had been any crystallization of a group in Telephone financing under the leadership of Morgan Stanley & Co. comparable to the group under the old J. P. Morgan & Co. leadership.

I submit, sir, that despite Mr. Stanley's desires that there be no group, as expressed to the participants, this chart indicates that there has been a crystallization.

The CHAIRMAN. Well, it is not the chairman's understanding that the witness has ever denied that there was a group. He has merely denied that there was any obligation by which particular members must of necessity be included in the group, and that is the only difference that I see. Am I correct in that?

Mr. STANLEY. Not quite, sir. It depends on what you mean by the word "group," I suppose. A group of underwriters—may I just finish?

The CHAIRMAN. Yes, sir.

Mr. STANLEY. A group of underwriters are the people who buy the bonds from the company. Now it is quite true that since 1935, since Morgan Stanley & Co. have managed these Telephone issues, all of these people that have been mentioned have been in the business, but a great many others have, too, on exactly the same terms. For instance, in some issues they bought the entire amount. The first issue—no; I am not sure whether you said seven names or nine.

¹ "Exhibit No. 1687."

Mr. NEHEMKIS. In that table? ¹

Mr. STANLEY. Yes.

Mr. NEHEMKIS. Nine names.

Mr. STANLEY. Anyway, it doesn't make any difference, a certain number of people bought the entire issue of the Illinois Bell, 9 people. The next issue, 10 people bought the entire issue; the next issue 10 people bought the entire issue; the next issue 47 people, all on exactly the same terms. In the next issue—

The CHAIRMAN (interposing). When you say "all on exactly the same terms," what do you mean?

Mr. STANLEY. I mean they paid the same price to the company.

The CHAIRMAN. Yes; but the proportionate share of each participant was necessarily different.

Mr. STANLEY. Not to the total. I will come to that in a moment, sir, if I may.

The next issue, 97 people bought the issue; the next issue 10 people, the next issue 48, the next issue 8, and how anybody can say there is anything very frozen about that I don't see. The next issue 37 people bought it, the next issue 43 people, the next issue 47 people bought it.

The CHAIRMAN. Are you referring now to the underwriters?

Mr. STANLEY. Yes, sir.

The CHAIRMAN. Or to the distributors?

Mr. STANLEY. To the underwriters. If you would like the number of distributors I can give them to you in each issue. They run from three to eight hundred people in each issue.

Mr. HENDERSON. Mr. Stanley—

Mr. STANLEY (interposing). May I just finish the question that the chairman raised? The people whose names Mr. Nehemkis has given here, that is ourselves; Kuhn, Loeb; Kidder, Peabody; Lee Higginson; First Boston; Brown Harriman; Smith, Barney; Blyth & Co., in the first issue bought 93 percent of the issue; in the next issue 89 percent. The next 83 percent, the next issue 53 percent of the issue, the next issue bought 46 percent of the issue.

The CHAIRMAN. Now, you are referring to the exhibit which has been—

Mr. STANLEY (interposing). No, sir, I am not; I am referring to a table of my own.

The CHAIRMAN. Well, I mean when you say the next issue, are you referring to the issues that appear on this chart?

Mr. STANLEY. Yes, sir; I am.

Mr. NEHEMKIS. Would the—

Mr. STANLEY (interposing). The next issue is—

Mr. NEHEMKIS (interposing). Excuse me a moment, Mr. Stanley.

Would the Chair request for the convenience of those who are trying to follow the testimony, that the witness discuss them in the order in which they appear on the chart?

The CHAIRMAN. Yes, let's do that; Mr. Stanley, would you do that?

Mr. STANLEY. I will read the names, if I may.

The CHAIRMAN. If you will hold in your hand, or conveniently, a copy of this exhibit ² and then, for the benefit of the members of the committee, identify each issue from it, reading from the top down—

¹ "Exhibit No. 1703."

² "Exhibit No. 1703."

Mr. STANLEY. Right, sir. In the first issue——

The CHAIRMAN (interposing). Which is the Illinois Bell?

Mr. STANLEY. The Illinois Bell issue, seven underwriters purchased 97 percent of that issue, the balance being taken by two more underwriters, presumably.

The CHAIRMAN. Pardon me?

Mr. STANLEY. The balance was taken by two more underwriters whose names are already in the testimony.

The CHAIRMAN. Well, now, let's see. Appearing on that table,¹ among the participants, are Morgan, Stanley & Co.; Kuhn, Loeb & Co.; Kidder, Peabody & Co.; Lee Higginson Corporation; The First Boston Corporation; Brown Harriman & Co., Incorporated; Smith, Barney & Co.; later also identified as E. B. Smith & Co.

Mr. STANLEY. Those are the first seven to whom I referred.

The CHAIRMAN. And then the Mellon Securities Corporation and Bonbright & Co.?

Mr. STANLEY. Right.

The CHAIRMAN. A total of nine underwriters?

Mr. STANLEY. Yes, sir. The figures are in this chart, Senator, and those figures are the ratio that Mr. Nehemkis has figured out of the respective amounts that each firm purchased as compared to the amount we purchased. The figures that I am giving you are the amounts in the aggregate of seven people, of the total issued. I don't question the accuracy of Mr. Nehemkis' statement here or his computation of mathematics, but what I am trying to say is that it doesn't tell the story at all, because you have got to consider the whole issue. You can't give just part of the issue and——

Mr. NEHEMKIS (interposing). Mr. Chairman, may I venture to say that it is impossible to make the kind of comparison that Mr. Stanley wants to make? I merely indicated, sir, that these were ratios and you can't compare ratios with absolute figures. Mr. Stanley should address himself to the chart in evidence, and then, if he wishes to——

The CHAIRMAN (interposing). He is doing that, Mr. Nehemkis, and what he is trying to do, as I understand him, is to point out to the committee what proportion of the entire issue was purchased by what underwriters and how many underwriters participated in each issue, and, of course, the committee is willing to have him make his explanation.

Senator KING. I think the explanation is quite proper and competent in connection with the transaction.

Mr. STANLEY. Thank you.

The second issue, the Southwestern Bell Telephone Co. issue, the first seven names at the top of Mr. Nehemkis' sheet purchased 89 percent of the total issue.

The CHAIRMAN. But there were 10 participants in that issue, all told?

Mr. STANLEY. Yes, sir; the next issue was the Pacific Tel. & Tel. 3¼'s, and those 7 people, the same 7 people, purchased 83 percent of the entire issue, and there were a total of 10 underwriters. The next issue, the American Tel. & Tel. issue of 1961, those same 7 people purchased 53 percent of the issue, and there were 47 underwriters; that is, 39 other people.

¹ "Exhibit No. 1703."

The CHAIRMAN. Now, may I interrupt you there to ask whether Morgan Stanley & Co. determined the identity of all the persons who participated and all of the firms that participated in that?

Mr. STANLEY. We did, sir; we discussed the names with the company, but they said the responsibility was ours, and as I said before, we had to guarantee performance.

The CHAIRMAN. Then the seven first names purchased how much of that security?

Mr. STANLEY. 53 percent.

The CHAIRMAN. Now, that allocation was made by you?

Mr. STANLEY. Yes, sir.

The CHAIRMAN. And you allocated the other 47 percent to these additional underwriters whom you brought in of your volition?

Mr. STANLEY. Correct; entirely.

The CHAIRMAN. And that was done at your discretion, and I assume you were guided by a sort of—what would be the best form of distribution?

Mr. STANLEY. Correct, based on our opinion of the merits of the people.

The CHAIRMAN. Very well.

Mr. NEHEMKIS. Mr. Stanley, do you want to point out that that was a \$150,000,000 issue?

Mr. STANLEY. Quite. The amounts are shown, I think, on your list.

Mr. NEHEMKIS. Yes.

Mr. STANLEY. The next issue of A. T. & T., of \$140,000,000, the 7 people bought 46 percent of the issue, and there were 97 underwriters. The next issue of Bell Telephone was $3\frac{1}{2}$ s— $3\frac{1}{4}$ s it should be—those same 7 people purchased 82 percent of the issue.

Senator KING. Purchased what?

Mr. STANLEY. 82 percent, sir; and there were how many underwriters?

Mr. YOUNG. Ten underwriters.

Mr. STANLEY. Ten underwriters. The Southern Bell issue, which was the next one, 7 people issued, it was a \$42,500,000 issue, and the same 7 people purchased 54 percent of the issue and there were 48 underwriters. The next issue was New York Telephone Co., a \$25,000,000 issue, and those 7 people purchased 98 percent of the issue, and there were 8 underwriters. The next issue, the Mountain States Telephone, the 7 people purchased 56 percent of the issue, and there were 37 underwriters.

On the Southwestern Bell issue, the 7 people purchased 56 percent of the issue, and there were 43 underwriters. That was a \$28,000,000 issue. The Southern Bell issue, which is the last one, was \$22,250,000, and 7 people purchased 55 percent of the issue, and there were 47 underwriters.

The CHAIRMAN. What was the largest percentage?

Senator KING. Who purchased the rest, on that last one, 45 percent?

Mr. STANLEY. There were 40 other people who joined in the purchase.

The CHAIRMAN. What was the largest percentage that you just gave us, allotted on any single issue, to the first seven firms?

Mr. STANLEY. The largest percentage was 98.40, and that is in the case of the New York Telephone Co., which the company wanted distributed primarily in the East and particularly in New York.

The CHAIRMAN. And the smallest was 50, or——

Mr. STANLEY (interposing). Forty-six percent.

The CHAIRMAN. Forty-six percent in what issue?

Mr. STANLEY. In the \$140,000,000 A. T. & T.

The CHAIRMAN. And in all other issues, these seven participated in more than 50 percent?

Mr. STANLEY. Yes, sir.

The CHAIRMAN. Now, those seven firms which in each instance except one took more than half of the total, were Morgan, Stanley & Co., Inc.; Kuhn, Loeb & Co.; Kidder, Peabody & Co.; Lee Higginson Corporation; The First Boston Corporation; Brown Harriman & Co., Inc.; and Smith, Barney & Co., also known as E. B. Smith & Co.?

Mr. STANLEY. Yes, sir.

The CHAIRMAN. And the various proportions which they took are substantially those set forth on the exhibit offered by Mr. Nehemkis?

Mr. STANLEY. I have no reason to question the accuracy of it.

The CHAIRMAN. That is a mathematical calculation; but as you glance at it, you see no reason to dispute the proportions?

Mr. STANLEY. Quite correct.

The CHAIRMAN. Very well.

Mr. NEHEMKIS. Mr. Stanley, you have referred to the first seven names, or a phrase substantially similar to that. Will you now give me the names represented by that phrase, the first seven?

Mr. STANLEY. Well, the first seven names on your list.

Mr. NEHEMKIS. No; the first seven names which you had occasion to refer to in your exposition of a moment ago. What are those seven names?

Mr. STANLEY. Well——

The CHAIRMAN (interposing). Well, I just read them, and he acknowledged them.

Mr. STANLEY. They are the first seven names on your list; they are the same names at the top of your table.

Mr. NEHEMKIS. I see. I just wanted to make clear that we were talking about the first seven names.

Do you recall Mr. Charles Mitchell's testimony in regard to Telephone matters when he was here? I believe you were present.

Mr. STANLEY. I was present, I think, most of the time.

ACCOUNTS "FROZEN TO A FAR GREATER EXTENT THAN OTHERS"—THE TELEPHONE ACCOUNT

Mr. NEHEMKIS. I am going to read to you what Mr. Mitchell had to say on the point now under discussion, may it please the committee:¹

Mr. NEHEMKIS. Mr. Mitchell, we left off this morning with a discussion of Telephone matters. You were good enough to indicate to the committee that you would make available certain information. Let me repeat to you some of the questions at this time. You had this to say, "There are certain accounts that are frozen to a far greater extent than others. For instance, what we know as the Telephone account.

"The CHAIRMAN. Is that a frozen account?

¹ Supra, p. 11573.

"Mr. MITCHELL. As to its leadership and the first few names on that account I think it is more nearly frozen, perhaps, than most accounts."

I skip a portion and I continue with Mr. Mitchell's testimony:

Mr. MITCHELL. I would say that for a long period of years—and I give you that from recollection—the business has been headed by J. P. Morgan and latterly by Morgan Stanley & Co., and there have always been in that group, always according to my recollection, Kuhn, Loeb & Co.; Kidder, Peabody & Co.; Lee, Higginson & Co.; and latterly, Lee Higginson Corporation. Since Morgan Stanley & Co. have handled this financing, those names have headed the list. They have also followed them in all of the issues, The First Boston Corporation; Brown Harri-man & Co.; and Edward B. Smith & Co., and those names by and large have been the names that have appeared in the public advertising.

Mr. NEHEMKIS. And it was that list of names of those underwriting houses which you have just enumerated that you regard as being the group?

Mr. MITCHELL. Those names have appeared so often with the head of the group, with the head of the underwriting syndicate, that I would say that they were regarded as the principal names in the Telephone business.

Mr. Stanley, is there a Telephone group under the leadership of Morgan Stanley & Co., Incorporated?

Mr. STANLEY. Not as I understand the meaning of the word.

Mr. NEHEMKIS. Mr. Stanley, I now read you from a memorandum covered by stipulation of Mr. Charles E. Mitchell, may it please the committee.

The memo is dated September 23, 1936, and is addressed to members of the firm by Mr. George Leib, who was a witness here, as you will recall, Mr. Chairman. I now read you, Mr. Stanley—

Senator KING (interposing). Did that witness identify the state-ment?

Mr. NEHEMKIS. This memo, Senator King, has been offered under a stipulation by the chairman of the board of Blyth & Co., who identi-fies it as coming from his files, and that stipulation¹ is in the record.

Senator KING. Well, the point I am trying to get at is, could that be regarded as having been sworn to by some person, some witness?

The CHAIRMAN. Yes, that was the understanding. Mr. Mitchell was here, and in order that he might not be required to remain, he acknowledged that, that that memo came from his files.

Senator KING. But he wouldn't swear to its accuracy and Mr. Leib was not here on the stand so he couldn't swear to it.

Mr. NEHEMKIS. I am still saying, sir, that for purposes of identi-fication, and that the record may be clear, Mr. Mitchell has stipulated and I am offering in connection with that stipulation, a memo coming from the files of Blyth & Co. I say nothing further with reference to its contents.

Senator KING. Well, you see, it is sort of getting the testimony in the back door, without bringing in the witness. Mr. Leib, on the stand and letting him swear that he made that statement.

Mr. NEHEMKIS. Mr. Chairman, I must take exception to that.

Senator KING. Is Mr. Leib going to be called?

Mr. NEHEMKIS. The record may show that counsel takes exception to that statement.

Senator KING. Let it be noted, but can Mr. Leib be called as a witness; yes or no?

Mr. NEHEMKIS. Mr. George Leib, in connection with this proceed-ing, is not to be called as a witness, Senator.

¹ "Exhibit No. 1691."

Senator KING. Well, I want to know—if he doesn't have his testimony here. We will continue.

Mr. NEHEMKIS. Shall I proceed?

The CHAIRMAN. Proceed.

Mr. NEHEMKIS [reading from "Exhibit No. 1705"].

Harold Stanley called up while you were out on the subject of American Telephone & Telegraph. There will be a \$175,000,000, 25-year, $3\frac{1}{4}$ s filed either today or tomorrow, to be offered about October 15. \$25,000,000 of this will be retained by the company for the pension fund.

It will be two point profit business with $\frac{3}{8}$ going to Morgan Stanley. Underwriters will receive $\frac{7}{8}$, subject to expenses and the selling group will receive $\frac{3}{4}$. * * * There will probably be about 45 underwriters—

And then appears a list of names. Now, the last paragraph [reading further].

Mr. Stanley went on to explain that there is absolutely no precedent in this business as the next issue will be a small one and it may be that they will go back to the original seven underwriters who appear publicly.

Mr. Chairman, I merely offer this in evidence at this time as an indication of what Mr. George Leib, whom the committee has seen and the committee has heard, understood at the time. It is offered in evidence.

The CHAIRMAN. It may be received.

(The memorandum referred to was marked "Exhibit No. 1705" and is included in the appendix on p. 12250.)

Mr. NEHEMKIS. And if I may use an expression—

The CHAIRMAN (interposing). Of course, Mr. Nehemkis, there is no argument about the facts so far as I see them. The witness acknowledges that there were several principal underwriters. He merely concedes that those could be changed. These various exhibits that you are offering do not in any sense controvert that declaration. I don't see how it can be controverted because it is a matter of interpretation.

Mr. NEHEMKIS. That is correct. I think you and I understand each other perfectly.

Mr. HENDERSON. I think also, Mr. Chairman, that some of the things we do offer support some of the contentions Mr. Stanley has made.

The CHAIRMAN. Yes, surely.

Mr. NEHEMKIS. Now, Mr. Chairman, in accordance with your previous arrangement concerning identification, I would like now to ask you to examine "Exhibit No. 1700," after I briefly touch on it, you will—if you will, sir, look at it. This exhibit was obtained from the files of E. B. Smith & Co., now known as Smith, Barney & Co. You will observe, sir, its very significant statement—

The CHAIRMAN (interposing). Now, is that one of the exhibits which we put in subject to future identification?

Mr. NEHEMKIS. Subject to future identification, correct, sir. This exhibit sets forth in one column the various underwriting houses that have participated in Telephone securities from the time of the passage of the Securities Act in 1933 up until the Mountain States Telephone & Telegraph offering of June 9, 1938, and on the left-hand side appears a list of underwriters, but the significant thing about this is that only the percentages and further reference marks that I will come to are made with reference to the first seven, always the percentage of the first seven and always the position in advertising of the first seven.

It would seem—I make no other comment about it—that at least one important and responsible investment banking house thought that only the first seven houses were significant in this business.

Will you examine it, Mr. Chairman?

GUARANTY OF FINANCIAL RESPONSIBILITY OF OTHER MEMBERS OF
SYNDICATE BY MORGAN STANLEY & CO., INC.

Mr. MILLER. Might I ask a question? Mr. Stanley, were all of these Telephone issues handled in the same manner, that is, you had to guarantee the account and all the members' responsibility in the account?

Mr. STANLEY. In each issue.

Mr. MILLER. I wonder if the committee have the impression that that is a normal type of account? Isn't that an extraordinary thing?

Mr. STANLEY. Well, it is not general, Mr. Miller. We have done it in a few other cases, but it isn't general. I don't know whether any other managers have done it or not. I don't recall any, but it seems to me that some have done it. But I might point out that there are various other kinds of guaranties that other managers arrange in other syndicates, a partial guaranty, up to 10 percent or the first 5 percent that might default, or whatever it might be, some guaranty of that kind. But I don't remember at the moment any other instance by any other manager of a complete guaranty of the entire underwriting.

Mr. MILLER. The usual thing is no guaranty on the part of the manager?

Mr. STANLEY. The usual thing is a separate, several contract between the underwriter and the company and that, of course, is one of the proofs that the company, in many cases, has a lot to say as to who the underwriters are, because they have a contract direct with them.

Mr. MILLER. I understand.

Senator KING. I didn't understand that last observation.

SEVERAL LIABILITY OF UNDERWRITERS UNDER PURCHASE CONTRACT WITH
ISSUER

Mr. STANLEY. The way business is done now, sir, a group of people buy an issue of bonds, whatever the amount may be, from a borrowing company. The procedure under the present laws makes it better, or less difficult, to have each underwriter sign a contract with the borrower. One man buys a million bonds, another man buys two million bonds—or another firm, in both cases, rather—another firm buys “x” number of bonds, and in the aggregate they comprise the entire issue, and that is a several contract between each firm and the borrower, so naturally the borrower knows something about whom he is doing business with.

Senator KING. From your experience in the business to which you have been referring, is there any advantage to the borrower in knowing just what he will get for his entire issue, and knowing that he will not have to go out and look around for a purchaser, to peddle them here and there in various parts of the United States?

Mr. STANLEY. Oh, absolutely; a very great advantage. It is essential that he know that he has got the entire amount to be paid to him on the date set.

Senator KING. From your experience over a long period of years, is it more advantageous to the borrower and to the public to have a plan such as you have indicated, or rather to just let each issue be advertised and sold to any purchaser desiring to buy any portion, without any guaranty?

Mr. STANLEY. Well, I think it is very much more to the advantage of the borrower and the investor to have continuing relations with responsible, competent people in the investment business, with a borrowing concern. I don't want to enlarge on it too much, but the investment banker who knows about the company for a long time and has gotten where they have mutual confidence in each other and have had satisfactory relations with each other, it is normal that they will continue and certainly they can do business better and more effectively than just a new man every time. Now, so far as the investor goes, such a person who has continued relations, whose advice is heeded and followed—they may be disagreed with but they talk it out and the company and the banker agree on what is the proper thing for the investor's interests—certainly the investor's interest is looked after a great deal better than in a case where the investment banker has nothing to say about a certain issue at all.

Senator KING. Another question: Are there many issues of bonds, not coming within the category to which you have referred in Mr. Nehemkis' memo, that have defaulted? In other words, in the general issue of bonds, not those that are guaranteed, are there many in default during the past few years?

Mr. STANLEY. By the underwriter to the borrower, you mean, sir, or do you mean by the public?

Senator KING. The purchaser.

Mr. STANLEY. You mean the borrower?

Senator KING. By the issuer.

Mr. STANLEY. There have not been many defaults of American corporations in recent years. Perhaps I don't understand your question correctly.

Senator KING. Well, are there many companies which have purchased bonds not in this—small group or individual groups, purchased bonds—have they defaulted?

Mr. STANLEY. Oh, I think perhaps I understand your question as, Do the investment banking firms—have they defaulted? No, sir, not often.

Senator KING. Where the investment banker has made a guaranty such as is indicated in these, have there been any defaults?

Mr. STANLEY. We haven't been called on to make up any defaults.

Senator KING. That is all.

Mr. NEHEMKIS. Mr. Stanley, may I clear up one point about your earlier testimony? As you were going over a list which was available to you, you indicated that in the Southern Bell Telephone Co. \$42,500,000 offering in 1937, the underwriting group had been increased from either 9 or 10 to 48. Is it not a fact that you increased that underwriting group at the express request of the Telephone Co.?

Mr. YOUNG. Is that Southwestern?

Mr. NEHEMKIS. Southern Bell Telephone, \$42,500,000, 3¼'s, 25-year debentures.

Mr. STANLEY. Well, I think very likely, Mr. Nehemkis. I can't be sure of the dates, but as I have testified, as business went on, as business began, we—this was 1937.

Mr. NEHEMKIS. Right.

Mr. STANLEY. But I am coming back in a moment. In the initial Bell issue, we thought the most appropriate and best thing to do—and I would like to explain some of the reasons in a moment—was to have a fairly small group and a very large distributing group. That was—we were just starting in business, and you know the conditions in the investment markets were uncertain. People's ability wasn't fully tested, these new firms and all that. As we went on and did more business, we became convinced, and the company also felt that it was very wise, on large issues, national issues, to have a much larger underwriting, and between us, we agreed. The determination of the people, however, was left to us.

Mr. NEHEMKIS. Mr. Chairman, I should like to refer—

Mr. STANLEY (interposing). We started that in 1936, Mr. Young says.

Mr. NEHEMKIS. I should like to refer at this time to a memorandum which has already been received in evidence, as "Exhibit No. 1701," subject to our prevailing understanding. This memorandum confirms substantially what Mr. Stanley just said. It is a memorandum from Mr. H. M. Addinsell with reference to the Southern Bell offer, dated April 14, 1937. I should like also to refer to another memorandum by Mr. Addinsell, "Exhibit No. 1702," on the Southern Bell Telephone offering of 1939.

RECIPROCITY WITH MORGAN STANLEY & CO., INC.

Mr. NEHEMKIS. Now, may it please the committee, I should like to read to you a letter from Mr. Mitchell. This letter is covered by Mr. Mitchell's stipulation¹ in evidence. This letter is directed by Charles E. Mitchell to his partner on the west coast, Charles R. Blyth, and reads as follows [reading from "Exhibit No. 1706"]:

I have had several talks with Harold Stanley regarding Pacific Telephone business and have used every argument that I can muster that we should be up around the top in that offering. He started out with the proposition that it was going to be impossible to revise the old account. Later he conceded us a position of \$1,000,000 in the underwriting and the last appearing name. Then he told me that there was just as much pressure from the Coast for the care of Dean Witter as there was for us and if he revamped the account to take us in, he would have to find some place for Dean Witter, and now in a letter written just as he was leaving for a holiday, he writes me as to the set-up as follows:

"As to Pacific Telephone, we have tried to consider all the different aspects of that issue. It is not coming for some time, but I think that the participants will be invited on the following basis."

Then appears the first seven names that we have been referring to, and three additional names, Blyth & Co., Dean Witter, and Harris & Co.

Continuing with Mr. Stanley's letter, which Mr. Mitchell quotes [reading further]:

"The names to appear in the advertisement in the order given.

"I know you will keep the above confidential, as we haven't spoken of any of the other houses, and the above program may be changed.

¹ "Exhibit No. 1691."

"After giving not only your wishes but the entire matter a lot of thought I am convinced that the above arrangement is fair all around and to the best interests of the business.

And now, sir, I call your attention particularly to the next paragraph [reading further]:

"I note what you say about your having offered us the participation in Pacific Gas & Electric, which of course we appreciated and which we were very glad to accept, but really there can be no connection between that and the Pacific Telephone business in your mind or ours."

Mr. Stanley, did that mean that you recognized that Blyth & Co. could not possibly reciprocate to you by having offered you a piece of P. G. & E. business for Telephone business?

Mr. STANLEY. Well, I don't know what it meant, because I don't know what was said in Mr. Mitchell's letter, but it certainly has no connection; there is no connection between the two in my mind.

Mr. NEHEMKIS. You still maintain that?

Mr. STANLEY. Yes.

(The letter referred to was marked "Exhibit No. 1706" and is included in the appendix on p. 12250.)

Mr. NEHEMKIS. Now let me read to you from Mr. Mitchell's testimony:¹

Mr. NEHEMKIS. You can't ever hope really to reciprocate to Morgan Stanley?

Mr. MITCHELL. No; oh, no; they are not in our line of business.

Mr. STANLEY. Well, I don't know whether you want me to comment on that or not.

Mr. NEHEMKIS. Only if you wish, sir.

Mr. STANLEY. Well, I don't see any reason at all why people can't do business with people who want to do business with them, but I say, in connection with the testimony that has happened here on reciprocity, that a man or firm cannot run a syndicate that he is managing on a basis of anything except merit and performance and usefulness to the business.

UNDERWRITING RISK RELATIVE TO TELEPHONE ISSUES

Mr. NEHEMKIS. Mr. Stanley, we have been discussing a case history of American Telephone & Telegraph Co. for 3 days. We have developed for the committee the origins of that business and we have carried it through the leadership of Morgan Stanley. May I ask you this question. What risk is actually involved in managing a Telephone issue?

Senator KING. What was the second word of your question?

Mr. NEHEMKIS. What risk, Senator, is there actually involved in going in a Telephone issue?

Mr. STANLEY. Well, Mr. Chairman, I don't see how you can apply that, if you are implying that there is no risk in any business you do. For instance, when the war happened—

Mr. HENDERSON. Mr. Chairman, I don't think that that was called for by the witness at all. I think the question was very plain and the witness has in my opinion no right to read an implication into that statement.

The CHAIRMAN. It was a conditional implication.

¹ Supra, p. 11600.

Mr. STANLEY. May I add to my answer in this way, that the risks involved in handling Telephone issues which are of the highest character are similar to the risks of handling all bond issues: The matter of markets, changing markets; the matter of proper pricing; there might be no risk as to insolvency.

Mr. HENDERSON. What was that?

Mr. STANLEY. There might be no risk as to the insolvency of the Telephone Company. For instance, when rumors of war happened in September, the outstanding Telephone bond issues went off 10 points, and if the syndicate had had a commitment at that time they would have had a loss. If you overprice the issue, as we did in the last Southern Bell issue, you may have a loss there, the bonds went down. I am very glad to say that on most of the issues we happened to have priced them very properly. Now, I might inject here, Senator—you have asked myself and I think some of the other witnesses whether there was any assurance that the price that was obtained by this method of negotiations was a fair and adequate price.

Leaving aside the question of the spread for the moment, which is all a matter of record in the S. E. C. and most of the utility issues are passed upon by one commission or another as to its propriety, I think the best answer, for instance, on the Illinois Bell issue was the price it sold at in the open market. I have those figures here. It was offered at 102½ and a month after it sold in the wide-open market at 102½. Now, it is a matter of judgment, and you have got to have experience in pricing and in merchandising. The same questions of judgment come into competitive bidding—I mean there isn't anything automatic about competitive bidding; a fellow forms an opinion as to what the proper price is, and he may be right or wrong.

The CHAIRMAN. What you are saying now is that in this particular issue—

Mr. STANLEY (interposing). Yes.

The CHAIRMAN. A month or so after the underwriting had been completed—

Mr. STANLEY. Right.

The CHAIRMAN. The issue was commanding in the open market a price which was at least a point above—

Mr. STANLEY. No, sir.

The CHAIRMAN. That at which it was disposed of.

Mr. STANLEY. It was selling at a price approximately the same, fractionally above the price at which it was offered, an eighth above. It was offered at 102½.

The CHAIRMAN. So at this period, after the underwriting, the issue was commanding in the public market not only the price at which the underwriters purchased from the issuing company but also the entire spread.

Mr. STANLEY. Right. The spread in my opinion is the compensation you pay for distribution, the same as you distribute any kind of commodity. You buy at wholesale and sell at retail.

The CHAIRMAN. Well, of course the point in a matter of this kind is whether so large a compensation should be paid for the distribution of so high-grade a security.

Mr. STANLEY. That may be one question. That is also a question of pricing and markets.

The CHAIRMAN. Surely; and I recognize that different answers might be given.

MR. STANLEY. Further than that, I think there is another point not often thought of. You get into the question of whether wide public distribution is a good thing or not, or whether concentrated holdings are preferable. Generally speaking, it has been my experience that the corporation which has to borrow every year, or every 2 years, with an expanding business, which I hope we are going to have again soon, those people would rather, generally speaking, have their securities widely distributed and have a market as a gage of their credit in the case of future issues. Now the only way you can get wide distribution from here to California and any other place is by having hundreds of dealers all over the country work and sell those bonds. The big houses can't do it all, the entire amount. They can do part but not all of it, and you have to pay those fellows or they won't work, and that is where part of your spread goes. There has been a lot of talk about dividing up the profits of business that people didn't own here—

The CHAIRMAN (interposing). There wasn't a great deal of talk; there was one simple short sentence.

MR. STANLEY. Well, that I agree with, Senator, completely. The selling commission is about half of the total spread, but on the question of division of profits among various bankers and their participations in issues, I am not sure that it has been brought out, I don't think that it has in the testimony I have heard, that when a man takes a million-dollar commitment as underwriter, if things go well he may make \$6,000; if things go wrong, Lord knows what he will lose. I mean we talk in such large figures that the compensation is lost sight of in the maze of large figures. Now another thing in distribution, and it is related to this Telephone business, that I would like to say very briefly is that most of these Telephone issues were refunding issues, and in considering the appropriate people who would be useful in the new syndicate, we naturally thought of people who had sold Telephone securities before. They were in touch with those people, those securities were to be taken away from them by redemption and new securities issued in their place. They naturally were in a much better position to place the new Telephone issues because of their knowledge and their clients having had old Telephone issues. As has been testified to here, the Telephone Co. developed in New England; the securities were largely held in the East. We had a list of the holders of the Illinois Bell issue that was to be redeemed. It was public information in the manuals of institution holdings, trusts, charities, insurance companies, and so forth, and of that issue those institutions alone held over half the issue. So it is obvious that the markets, generally speaking, as well as the holdings of the telephone bonds, are in the East rather than the West. We did put bonds in the West in the selling group and in other places too. Incidentally, we put quite a large amount in Chicago.

I may say that Mr. Stuart is an old friend, but his figures were wrong in the amount of his selling participation. He had \$1,000,000 which he accepted.

The CHAIRMAN. What about the distribution of Telephone stock? Is that carried on in the same way?

MR. STANLEY. That is generally, or latterly, by the company offering directly to its own shareholders, nobody else having anything

to do with it, and the price is very attractive and way below the market. There have been times in the past where the Telephone Co. had a campaign of selling stock to the public, but that hasn't been done lately.

Mr. AVILDSSEN. You said that the Southwestern Bell issue was overpriced, I believe?

Mr. STANLEY. No; the Southern Bell.

Mr. AVILDSSEN. Would you explain what you mean by overpriced?

Mr. STANLEY. Well, priced at a figure where it wasn't attractive to all the public, and all the bonds were not sold and the price went off.

Mr. AVILDSSEN. Who got the benefit of the overpricing, the underwriters or the Company?

Mr. STANLEY. The Company.

Mr. AVILDSSEN. The Company got the benefit of the overpricing?

Mr. STANLEY. Yes.

Mr. AVILDSSEN. How about the investor?

Mr. STANLEY. The investor lost, if he bought bonds at that price, unless he bought them after they had gone down.

Mr. HENDERSON. Do you mean the investor lost if he bought a bond and then sold?

Mr. STANLEY. Yes; if he retains it he may not have a loss at all.

Senator KING. Have you concluded your statement, Mr. Stanley?

Mr. STANLEY. Yes, sir.

Senator KING. I want to ask one question. From your experience, is it more satisfactory to the public in general to have underwriting than where you sell without any underwriting? In other words, you sell more readily where the bonds are underwritten by responsible organizations?

Mr. STANLEY. Much more so in the latter case, and, in addition to that, Senator, of course when a company has a bond that is coming due, as the New York Telephone Co. did this fall—seventy-five million, or whatever the figure was—they have got to have somebody agree to provide that amount of money on October 1, or whatever the date is. They can't go out and make an effort to sell things and get half of it and not the rest of it at all, and the same thing applies in these refunding issues, of which there have been a great many in the last year, calling an outstanding security, paying perhaps 5 or 6 percent, to refund at 3 percent. When they make a call to the bondholders those bonds come due, and they have got to have the money in their pockets to pay them.

Senator KING. That would necessitate—or at least it is believed to be necessary to go out then, and organize a syndicate for the purpose of taking up the refunding issue?

Mr. STANLEY. Yes, sir.

Mr. NEHEMKIS. May I interpose at this moment and ask the committee's indulgence to continue a little longer than we usually do so that we may conclude with Mr. Stanley's testimony before lunch and not run over our schedule? As you recall, we have already advised certain witnesses that their appearance would not be necessary.

The CHAIRMAN. How long do you expect?

Mr. NEHEMKIS. About 20 minutes.

The CHAIRMAN. Proceed.

Mr. NEHEMKIS. Mr. Stanley, I believe you were present here yesterday when the committee received in evidence a table¹ showing that on the old J. P. Morgan syndicates of Telephone bonds the syndicate books frequently closed in 1 minute, 5 minutes, 30 minutes, an hour; 2 hours was considered a flop. Now, do you find any substantial difficulties in disposing of Telephone bonds since Morgan Stanley has had the leadership of the telephone business?

Mr. STANLEY. I think the bonds have gone very well in most cases excepting the last Southern Bell issue.

I want to point out that what you have said, your description of the method prior to 1935, is not correct.

Mr. NEHEMKIS. Excuse me, sir; do you want to testify about a matter pertaining to J. P. Morgan & Co.?

Mr. STANLEY. I can testify about the general practice in the securities business because that is what I was in charge of at the Guaranty.

The general practice in subscription issues prior to the 1933 Banking Act was that selling syndicates were formed, and they were told a few days in advance that subscription books would open on a certain date, and between the time they got that notice and the opening of the books they sold the bonds; maybe it took 2 or 3 days. The idea that they sold the bonds—

Mr. NEHEMKIS (interposing). That isn't what has ever been said. The table and any comments on the table merely said that the books were closed, not that the bonds were sold. The books were closed; that is what we are talking about.

But let me proceed, sir, if you have finished. Hasn't Morgan Stanley's biggest difficulty in Telephone issues really been in keeping out other underwriters who wanted participations?

Mr. STANLEY. Well, as in almost all good business, Mr. Nehemkis, there are underwriters who would like to have been included in the Telephone issues, who were not, but you can't include everybody who is eligible in any piece of business. The conversation on the part of certain people who may have desired to be included, when they talk to us, isn't very realistic. They talk about being included, and they don't even know what the price is going to be, it is just conversation, they are soliciting business.

Mr. NEHEMKIS. Mr. Stanley, the Illinois Bell offering of 1935, with which we started this morning, was a refunding, was it not, of the Illinois Bell of 1923, headed by J. P. Morgan & Co.?

Mr. STANLEY. I don't know; I think so. It was a refunding issue of an outstanding bond.

Mr. NEHEMKIS. Will you ask one of your assistants?

Mr. YOUNG. It was.

Mr. NEHEMKIS. Do you accept Mr. Young's answer as your answer?

Mr. STANLEY. Yes, quite.

PROFITS OF J. P. MORGAN & CO. AND MORGAN STANLEY & CO. INCORPORATED,
ON TELEPHONE FINANCING

Mr. NEHEMKIS. From an exhibit² previously offered and now in evidence it appears that the 1923 issue had a total spread of $3\frac{1}{4}$, or

¹ "Exhibit No. 1688."

² "Exhibit No. 1681."

\$1,625,000, and the total profit to J. P. Morgan & Co. from the flotation of the 1923 issue was \$144,000.

Now in 1935, Mr. Stanley, on the issue of Illinois Bell which was brought out under the leadership of Morgan Stanley, there was a spread of 2 points or \$874,000, and from the table ¹ that you now have before you, you will note that the total profit to Morgan Stanley from the flotation of the 1935 issue was \$211,345. Note, Mr. Stanley, that J. P. Morgan & Co.'s gross profit was less than 10 percent of the gross spread. Morgan Stanley's gross profit was almost 25 percent of the gross spread.

Now would you care to indicate why there should be such a glaring discrepancy?

Mr. STANLEY. I don't think there is any connection between the two things.

Mr. NEHEMKIS. Do you want the record to show that that is your answer?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. Is not the ability to collect a quarter point management fee on the entire issue one of the major perquisites of leadership in syndication?

Mr. STANLEY. Well, any one of the—I don't know that I would call it a major perquisite, I think that is an improper designation, but I would say one of the most important parts of any syndicate offering is the work that the manager does in preparing the issue, advising the company, forming the underwriting group, forming the selling group, sponsoring the issue, putting his own money up to back his own judgment.

Mr. NEHEMKIS. Let me put my question to you bluntly, sir. Underwriters don't work for nothing. Is not the quarter-point management fee very important?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. Now Morgan Stanley's management fees on Telephone business have amounted, have they not, to approximately \$2,000,000?

Mr. STANLEY. I will have to add them up, but I should think our total profits, including management fees, ran somewhere around a half of 1 percent.

Mr. NEHEMKIS. Will you accept my figure, subject to your correction?

Mr. STANLEY. Certainly.

(Senator King took the chair.)

Mr. NEHEMKIS. I should like to offer at this time a table which gives the figures that I have been referring to. You will note, sir, that the source of the data upon which this table has been predicated was furnished us by Morgan Stanley & Co. Incorporated.

Acting CHAIRMAN KING. Have you seen it, Mr. Stanley?

Mr. STANLEY. I have not seen it, sir.

Acting CHAIRMAN KING. It may be received.

(The table referred to was marked "Exhibit No. 1707," and is included in the appendix on p. 12251.)

Mr. NEHEMKIS. Would it not be possible for the witness to accept that subject to correction at his leisure if he finds any inaccuracies?

¹ "Exhibit No. 1707."

Acting Chairman KING. During the recess, if you desire to make any suggestions or corrections you may do so when the committee meets.

Mr. NEHEMKIS. I merely say that so we may go ahead.

Mr. STANLEY. Certainly.

Mr. NEHEMKIS. Is it not a fact, sir, that Morgan Stanley's total profits on Telephone business has amounted to \$2,800,000.

Mr. STANLEY. The total gross profits, which in your table shows before taxes, overhead, and return on capital—

Mr. NEHEMKIS (interposing). Two million eight hundred thousand dollars.

Mr. STANLEY. That is the figure before those expenses and other items which I have just mentioned, taxes and overhead—

Acting Chairman KING (interposing). Out of that there would be expenses, rent of your office, and employees?

Mr. STANLEY. Yes, indeed, sir.

Acting Chairman KING. Social Security.

Mr. STANLEY. It is a very expensive kind of organization to keep. You have business, sometimes a lot of it at once, and sometimes it is a long time before you have it. You have to keep a staff of expert people, and, of course, after taxes are paid nowadays there is not so much left.

Mr. NEHEMKIS. Mr. Stanley, you may recall, having been present here yesterday, that the committee received in evidence a table¹ showing the amount of securities floated under the leadership of J. P. Morgan, and the profits realized thereon.

Mr. STANLEY. I was here, but I missed that.

Mr. NEHEMKIS. I will give it to you now. Between 1920 and 1930, according to the table now in evidence, J. P. Morgan & Co. floated a total of \$832,000,000 of Telephone securities on which it realized a profit of \$2,969,000. Now the total spread on this business, in dollars, amounted to approximately \$27,500,000, and the Morgan profit was about 11 percent of the total.

Now Mr. Stanley, Morgan Stanley & Co., Incorporated, has managed approximately \$580,000,000 of Telephone securities on which its gross profit, as you have indicated the use of the term, has been \$2,778,000. The banker's gross commission in your business, that is to say, under your leadership, has been \$11,500,000 and Morgan Stanley's percentage of the total gross commissions has been, according to my calculations, in excess of 25 percent as compared with but 11 percent for J. P. Morgan & Co.

Would you accept that?

Mr. STANLEY. Well, I would say that it certainly is 2 or 3 or 10 times as hard to do business now as it used to be, with all these laws and regulations and what not. I am a firm and strong believer and in favor of the underlying ideas of the Securities Act, but actually it is awfully expensive to do business today, and further than the expense of it, you have civil liabilities that run for 3 years and you don't know what they mean.

I might say, Senator, that our guaranty of performance in the Telephone issues alone raises a civil liability—if they were all within

¹ "Exhibit No. 1681-3."

a 3-year period, which I am not sure they were—of a total of \$580,000,000. Theoretically, conceivably we are liable on that whole amount.

POSITION OF DEALER

Mr. NEHEMKIS. You have indicated, Mr. Stanley, that the possibilities of profit are becoming more and more difficult. Has the proportionate share in the business been felt by the distributor, has he shared equally with the underwriter in these profits?

Mr. STANLEY. I am not sure that I get your question clearly, Mr. Nehemkis.

Mr. NEHEMKIS. You have indicated that it is more difficult today—

Mr. STANLEY (interposing). More expensive, and more difficult.

Mr. NEHEMKIS. More expensive for the underwriter to do business?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. You have given some of the reasons. What about the little dealer scattered over the country? Does he share in the profits realized by the underwriters to the same extent?

Mr. STANLEY. Does he share in the profits realized by the underwriters to the same extent as he previously did?

Mr. NEHEMKIS. Yes.

Mr. STANLEY. The business is done on an entirely different basis. In the old days the dealers—it is hard to say this without being technical, Senator. Let me begin again. In the old days the selling syndicate usually included a lot of dealers, the principal people in the business and other people; all of those people had a firm commitment in the syndicate. To go back a minute—beyond that, usually in those days a group of a few people bought an issue and then formed a syndicate which they sold it to, but everybody had a firm commitment in the syndicate. Nowadays the dealer doesn't have a firm commitment. Underwriters buy a block of bonds from a company, buy an entire issue; they hold the bag, they offer the dealers around the country an opportunity to sell those bonds, give them an option for a day, and he gets less compensation working on a commission or on an option than he used to get when he made a firm commitment.

Mr. NEHEMKIS. Let me see if I can make a little clearer what I had in mind a moment ago. The gross spread, as you have indicated, as the evidence shows, has been cut roughly in half. The underwriter's proportion, however, has been increased about 250 percent. Now here was what I was trying to get out. Has the dealer been getting a smaller share than he got before?

Mr. STANLEY. The dealer who is not an underwriter?

Mr. NEHEMKIS. Yes.

Mr. STANLEY. Well, he functions—yes, I think the dealer who sells today on an option gets less compensation than the dealer who in the old days sold not as a dealer but as a member of a selling syndicate which is different from an underwriter.

Mr. NEHEMKIS. That is what I was trying to get.

Mr. STANLEY. He does a different job. He doesn't have liabilities under the Securities Act. The underwriter does.

Mr. NEHEMKIS. Let me ask you a question at this point. Is the result of what you have just said, namely, the smaller share, which

has been going to the dealer, result from anything the dealer has done? Has he asked for it?

Mr. STANLEY. The dealer prefers it. The dealer would rather make a commission on selling what bonds he is able to sell in a day than to take up bonds that he doesn't know whether he can sell or not. You see, under this method he doesn't have to take them up until after he is able to sell them, and naturally he is much safer and most of these smaller dealers haven't got very much capital. It also has another feature which has nothing to do with your question which is a good feature; it cuts out this high pressure selling to a great extent.

Mr. NEHEMKIS. Mr. Chairman, I don't think you were here at the opening of the hearings, but we opened at that time with Commissioner Henderson reading a very historic letter. He read at that time a letter from Lee, Higginson & Co. to Frederick P. Fish, Esq., president of the American Telephone and Telegraph Co. The letter was dated February 15, 1905. With your leave I want to conclude these hearings by reading to Mr. Stanley one paragraph of that letter. Will you follow me on this, sir?

Acting Chairman KING. Did you hear it?

Mr. STANLEY. No, sir.

Mr. NEHEMKIS (reading from "Exhibit No. 1708") :

As we think we have made it apparent to your Company ever since our firm and Messrs. Speyer & Co. provided for the last capital requirements, we are anxious to be afforded an opportunity to show on what terms we can provide the fresh capital desired by the Company for the coming year. We do not ask or suggest that we should be given the slightest preference over any banking firms. The Company is in sound financial condition, and we submit that there is no reason, based on the condition of the Company in the present market situation, why the company should not provide for its wants on the best terms available, and we think it a fair statement to say that the Company cannot determine what these are if it permits a single firm only to lay before it a plan to provide for its financial requirements.

Mr. Stanley, isn't the situation which Francis Higginson, one of the most distinguished bankers of his time, was writing about in 1905 just as true at the present time?

Mr. STANLEY. Well, I would say two things in answer to that, Mr. Nehemkis. First, if the Telephone Company doesn't think we do a good job it is not going to keep us, and they are very competent people. In the second place, I would say when we as manager convey our ideas to the company as to what we think are the proper terms of an issue it represents the combined opinion of the best firms in the business, the best distributors.

Mr. NEHEMKIS. Thank you, sir, very much.

(Senator O'Mahoney resumed the chair.)

Mr. NEHEMKIS. Mr. Chairman, there are a few documents to be offered at this time. The table to which I made reference earlier and the source has been identified. I should like this historic letter from Francis Higginson to Mr. Fish printed in full, if you will, sir. A letter to me from Mr. Henry S. Sturgis, giving certain percentages in the participations of Telephone issues under the J. P. Morgan & Co. leadership, and a similar table and a letter of transmittal from Kuhn, Loeb & Co.

The CHAIRMAN. Without objection, the documents may be admitted.

(The documents referred to were marked "Exhibits Nos. 1708, 1709-1 to 1709-3, and 1710-1 and 1710-2," and are included in the appendix on pp. 12252-12256.)

The CHAIRMAN. Are there any other questions to be addressed to Mr. Stanley?

MEMORANDUM ON COMPETITIVE BIDDING BY MORGAN STANLEY & CO., INC.

Mr. STANLEY. I am not sure but that in the last sentence I spoke of the best firms in the business. I would like to have it made clear I mean the best other firms in the business.

There is one other thing I would like to say, sir. There has been a good deal of reference to competitive bidding and what is in the public interest in the two methods of doing business. We had hoped this subject would come up in these hearings and we tried to put our own ideas in shape to present them as completely as we could on that subject and to be prepared to be examined and cross-examined on it. I am very sorry that there isn't time in these hearings to go into that subject fully, but in order not to waste time on it I put my own ideas in the form of a memorandum which I would like very much to submit to the committee and have it put in the record.

The CHAIRMAN. Mr. Stanley, Mr. Henderson pointed out earlier this morning that the S. E. C. is apparently preparing a complete study on that very question. We have endeavored to have these various matters presented in an orderly way so that all sides could be reviewed at one and the same time. The insertion now of a statement by you would immediately subject the committee to requests from persons who take a different view, don't you see?

Mr. STANLEY. Quite right.

The CHAIRMAN. And if you will bear with the committee or the chairman in that respect I think perhaps it would be best.

Mr. STANLEY. I quite understand that you can't attempt to argue the question when there are other points of view, but if it isn't possible to put it in the record may I submit it to you and the other members of the committee for them to read?

The CHAIRMAN. We would like very much to have you do that, and I assure you that it will be given the very closest attention.

Mr. STANLEY. First rate, sir.

The CHAIRMAN. When that particular question comes up it will be thoroughly reviewed.

Mr. STANLEY. First rate, sir. I will then submit it.

Mr. HENDERSON. Mr. Chairman, I object to the submission at this time even for members of the committee, for these reasons: The subject of competitive bidding as it relates to Mr. Stanley's firm and a number of other firms is one of the most acute and most often discussed. We in the S. E. C. and in the Investment Banking Section have been pressed by others of different and opposing views to have a hearing. We have told each one who asked to be heard, some of whom are presently engaged in controversy with Mr. Stanley's firm for pieces of business, that this hearing was not going to take up this particular matter. I feel that we have given a certain amount of promise to those of opposing view who wanted to be heard, and they would have a right to resent it if Mr. Stanley in a hearing that was decidedly limited were able to intrude his views, no matter what the guise. This committee is at liberty to do as it pleases,

of course, but I want to register, in no uncertain terms and in the strongest language I can command, an opposition to this particular introduction even to members of the committee at this time, for the reasons I have stated.

Mr. STANLEY. I didn't suggest this thing with any idea of going into arguments or into controversy that Mr. Henderson speaks of. There is no reference whatever in this memorandum to that subject. I only suggested doing it because the topic has come up repeatedly in these hearings at which I have been present.

The CHAIRMAN. Let me say it is a matter of great personal interest to me, and Mr. Stanley and the others would be at perfect liberty to leave this room and go down to the post office and mail it to each one of us. He has agreed that it shall not be entered as a part of the record, and I really can't see any objection to the members of the committee receiving it.

Mr. HENDERSON. I regard it, Mr. Chairman, as decidedly a disregard of the orderly presentation of information before this committee. If it needs any stronger language I will be glad to offer it at this time. I want this committee to be under no doubt as to how I feel about the submission of one point of view by what I would consider a backdoor method. Mr. Stanley is at liberty to do anything he wants in America with his point of view, but for this committee to recognize it I say does not keep faith with the others whom we have assured that this matter would not come up here.

The CHAIRMAN. But the committee is not recognizing it under the agreement that I announced would be perfectly willing to adopt.

Mr. HENDERSON. It makes no difference.

The CHAIRMAN. I feel myself, by some inadvertent questions which I addressed to the committee without first submitting them to the S. E. C., that I provoked this matter, and for myself I am perfectly willing and happy to receive the letter and I don't believe that in any way interferes with the presentation of this hearing by the S. E. C.

Senator KING. I would like to ask Mr. Stanley one question. Does that in any way explain or cover the testimony which you have been giving here today, or deal with that same subject?

Mr. STANLEY. It refers to the same general subjects.

Mr. HENDERSON. To the A. T. & T. financing?

Mr. STANLEY. No, sir; not to any specific piece of financing; the general subjects of what an investment banker does and should do for his client.

Mr. HENDERSON. I call the witness' attention to the fact that the subject matter before us was the A. T. & T. financing.

Senator KING. If that were true, and we asked questions that transgressed those limitations, it seems to me perfectly in fairness to the counsel representing the Government and the witness, they would have a right to make an explanation of anything that was developed here in the hearing, and I would accept the views of the chairman.

Mr. STANLEY. It is a question of doing business in general without relation to any particular company.

Thank you.

The CHAIRMAN. Are there other questions? Are you going to have other witnesses this afternoon?

Mr. NEHEMKIS. We have three witnesses for this afternoon. Shall I tell you their names now?

The CHAIRMAN. It might be well.

Mr. NEHEMKIS. Mr. George Whitney and Mr. Arthur Anderson of J. P. Morgan & Co., and Mr. Joseph R. Swan, of Smith, Barney & Co.

The CHAIRMAN. The committee will stand in recess until 2 o'clock this afternoon.

(Whereupon, at 12:50 p. m., the committee recessed until 2 p. m. of the same day.)

AFTERNOON SESSION

The committee resumed at 2:12 p. m., on the expiration of the recess.

The CHAIRMAN. The committee will please come to order.

Mr. NEHEMKIS. I apologize, Mr. Chairman, for holding you up.

The CHAIRMAN. It is the first time you have done it.

Mr. NEHEMKIS. I hope that you will forgive me. May I ask for your further indulgence for one moment more? May the Commissioner and I have an off-the-record discussion for a few seconds with Mr. George Whitney before his testimony?

The CHAIRMAN. You may.

Mr. HENDERSON. I should say, Mr. Chairman, that Mr. Nehemkis was trying to see me all noon hour and I was conferring with you.

The CHAIRMAN. You were buying my lunch. [Laughter.]

(Off-the-record discussion.)

The CHAIRMAN. Are you ready to resume, Mr. Nehemkis?

Mr. NEHEMKIS. I am, Mr. Chairman, I apologize again, sir.

Mr. Chairman, members of the committee. In view of certain evidence which has just come to my knowledge I find it necessary at this time to recall Mr. George Whitney who, of course, will appear later, but I am now recalling him on the Telephone matter.

Mr. George Whitney, please.

TESTIMONY OF GEORGE WHITNEY, J. P. MORGAN & CO., NEW YORK, N. Y.—Resumed

Mr. NEHEMKIS. Mr. Whitney, have you ever had occasion to give sworn testimony which is contradictory to anything which you have had occasion to testify to before this committee in the past few days?

Mr. WHITNEY. No.

TESTIMONY OF MR. WHITNEY IN THE NIAGARA HUDSON POWER HEARING RELATIVE TO TELEPHONE FINANCING

Mr. NEHEMKIS. Mr. Whitney, I read to you testimony taken at a private hearing before the Securities and Exchange Commission in the matter of the application of Niagara Hudson Power Corporation for exemption as a subsidiary of the United Corporation.

This appears on page 153 [reading]:

Question. There were no commitments, formal or informal—

The CHAIRMAN (interposing). By whom was the question?

Mr. NEHEMKIS. By Mr. Lawrence S. Lesser, acting as counsel for the Securities and Exchange Commission [reading]:

Question. There were no commitments formal or informal, were there?

Answer. No.

Question. In those days, there used to be formed what were known as groups?

Answer. I suppose if you want to, you have to acknowledge—I mean, men acquired certain vested rights in these groups which they have bitterly resented if they were changed, but as far as any agreement on our part, or any paper or contractual thing in any of these, or in any other, the only group that we ever had anything to do with in the last 25 years that I know about is telephone. In the old days there was a traditional position, percentages, in the so-called telephone group which we managed, but there there was a definite arrangement. That is the only one.

Do you care to make any comment, sir?

Mr. WHITNEY. Merely this, Mr. Chairman. Mr. Nehemkis was kind enough to show me this testimony to see if it refreshed my memory in connection with my first answer, which he thought was contradictory. I don't consider that that is in any way contradictory. I said there, if I can remember exactly, that certain people bitterly resented changing percentage that they considered they had vested rights, but that we never had contract or arrangement. I have never on the stand in the last few days questioned the accuracy of the memoranda Mr. Nehemkis has presented from Kidder's in which they had used the word "proprietary," and so forth.

There was quite a lot of discussion in the last 2 or 3 days about how we tried to change those percentages, about this pencil memorandum of mine which I have specific reference to,¹ and how we were unsuccessful in that. And while I haven't so testified, it would have seemed to me to be clear that Mr. Winsor felt from his exhibits—from his actions when we have tried consistently through the twenties to continue to extract from the New England distribution for the national distribution, a larger percentage, that he felt he had a right, going away back from 1906 when he introduced us to the business, and right on down through, and I am perfectly clear that in that testimony I gave a year or two ago, or whenever it was, I had in mind that he did consider they had vested rights. But I would like to just say—

The CHAIRMAN (interposing). When was that testimony given?

Mr. WHITNEY. January 24, 1939, less than a year ago. But I said here, as Mr. Nehemkis read, that as far as any agreement on our part or any paper or contractual thing, the only group that I know is the Telephone where Mr. Winsor was successful in resisting any wish that we in the distributing end of my office had. While I don't know this, I am pretty sure because I had some conversations on the same subject in 1930 with Mr. Winsor; I have not felt it was my duty to answer a lot of things that were irrelevant to the questions, but I don't consider—and I still stand on my answer—that there is anything contradictory. The facts are simply these, that we had a job of work to do. We thought we could do it better by changing the percentages. Mr. Winsor felt that he had a right in it that we never recognized, and that we never considered true.

The CHAIRMAN. You tried to change the percentages as long ago as May 6, 1920?

Mr. WHITNEY. Yes; and practically constantly through the next 10 years.

¹ "Exhibit No. 1679."

The CHAIRMAN. So that this effort on your part, this unsuccessful effort, to change the percentages, lasted down to January 1939, and it was of such a character that at that time in your testimony you spoke of it from the point of view of those who were holding the interests as a vested right?

Mr. WHITNEY. That is right. And, of course, perhaps it is irrelevant to mention the context, that this came up against a suggestion by the S. E. C. lawyers that there was another case in connection with Niagara Hudson, where certain people considered they had vested rights.

The CHAIRMAN. My impression, you know, was that you testified that the word "proprietary" came to you as a complete surprise.

Mr. WHITNEY. And that it was Winsor's word. I have never questioned the accuracy, or his attitude. I never was asked what Mr. Winsor thought about it. Obviously, I wouldn't know, but I have never questioned that he considered he had a vested right. I was talking about J. P. Morgan & Co.

The CHAIRMAN. You knew at all times, concerning which you have testified, that Winsor and his associates did think they had a vested or proprietary interest in this matter?

Mr. WHITNEY. Certainly.

Senator KING. In the New England matter?

The CHAIRMAN. No; in the distribution of the Telephone securities.

Mr. WHITNEY. You notice, also, that I used the word "traditional," which is what Mr. Winsor said.

Senator KING. Well, so that I may be clear in regard to the matter, did Mr. Winsor claim any interest in any of the Telephone issues except those relating to corporations engaged in Telephone business in the New England States?

Mr. WHITNEY. Oh, certainly. All the American Telephone System and its subsidiaries throughout the country. These are financial operations, Senator King, that I have testified about during these last 2½ days, which had to do with the whole system. This memorandum of May 5, 1920,¹ had to do with the A. T. & T. and subsidiaries. He thought it went to everything.

Senator KING. The reason I asked the question was that I understood you to say that he brought you the business from the New England States, and that you tried to change the percentage there, and that his testimony, or your testimony there, related to his contention with respect to the New England issues and not with respect to any other Telephone issues.

Mr. WHITNEY. No, sir; that goes back to the very first days, traditionally back to 1906, the financing of the Telephone system was handled in New England in 1906. I testified the other day that because the financial program got to be of such size, Mr. Winsor felt that it could no longer be handled successfully in New England alone, so he approached Messrs. Kuhn, Loeb & Co. and ourselves for assistance in a transaction of convertible bonds, and that was where we became in the first instance connected with Telephone financing. And I think Mr. Winsor felt that that—let me put it a different way. I think we felt that that was very difficult, to insist on things with Mr. Winsor, when Mr. Winsor claimed certain rights. But we never

¹ "Exhibit No. 1673."

believed in them. We never felt that we had any vested rights to the business unless we did a good job for our clients, and it was their election in each issue that came along.

RECOGNITION OF CLAIMS OF KIDDER, PEABODY & CO.

Mr. HENDERSON. During the twenties, you did recognize the claim that he set up?

Mr. WHITNEY. We had no option but to recognize it.

Mr. HENDERSON. What do you mean by that, "no option"? You have testified there was no legal right, derived from the library agreement, that he could assert against you.

Mr. WHITNEY. Oh, well, technically, if we wanted to be perfectly ruthless, we would have made an issue of it, but that isn't the way we do business.

Senator KING. I want to ask one question. I omitted to ask it of one of the witnesses who was on the stand. What proportion or percentage of the underwriting during the past—oh, 5, 6, 8, or 10 years, has been with respect to new issues and what proportion with respect to refunding operations?

Mr. WHITNEY. Well, if I may testify—it is very hard to distinguish between them. I think, Senator, it is fair to say that Morgan Stanley could testify better on that because I have not been familiar with the issue business since 1935, but I think the issues of 1935 and 1936 and 1937 were very largely refunding. I think since then there has been a portion of both. Prior to 1935, with the exception of some financing done in 1920 and 1921, which was refinanced in 1924 and 1925, when money rates changed, it was practically all new money.

Mr. HENDERSON. Mr. Nehemkis, Senator King asked a question as to how much was new money and how much was refunding. Did we not have a calculation of the Morgan Stanley issues which shows how much was new money and how much was refunding?

Mr. NEHEMKIS. No, sir; we did have a general calculation which I think is the direct answer to Senator King, in the testimony that was presented last spring, on savings and investment, and as soon as I return to the office, I will be very happy to send you a copy.

Senator KING. If it is already in the record, there will be no necessity for that.

Mr. HENDERSON. I mean about the Telephone Co.

Mr. NEHEMKIS. No, sir.

Shall we proceed?

I now call to the witness stand, Mr. Arthur Anderson and Mr. Joseph R. Swan.

Senator KING. Are you through with Mr. Whitney?

Mr. NEHEMKIS. Mr. Whitney will remain on the stand.

(Senator King assumed the Chair.)

Acting Chairman KING. Have you been sworn?

Mr. NEHEMKIS. Mr. Swan has not been sworn and Mr. Anderson has not been sworn.

Acting Chairman KING. Do you each of you solemnly swear that the testimony you are about to give in this proceeding is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. ANDERSON. I do.

Mr. SWAN. I do.

TESTIMONY OF ARTHUR M. ANDERSON, J. P. MORGAN & CO., NEW YORK, N. Y.; JOSEPH R. SWAN, SMITH, BARNEY & CO., NEW YORK, N. Y.; AND WILLIAM S. WHITEHEAD, SECURITY ANALYST, SECURITIES AND EXCHANGE COMMISSION, WASHINGTON, D. C.

Acting Chairman KING. You may proceed.

Mr. NEHEMKIS. Will Mr. Lyons and Mr. Whitehead step forward, please? In the interests of economy, Senator, I will have members of my staff identify a number of documents so there will be no interruptions later. Mr. Whitehead, will you examine the documents before you and indicate for the committee the name of the document and where you obtained it, and that you recognize it to be a document that you so obtained from the files of the company, that you will mention?

Mr. WHITEHEAD. This first list consists of a selling group of 22 names, that came from the files of The First Boston Corporation. It is headed, "Toledo & Ohio Central Railway Co., Refunding and Improvement Mortgage, 3 $\frac{1}{4}$ bonds."

This next piece of material came from the files of the New York Central Railway. It is a letter written by Mr. John M. Young, dated June 18, 1935, address, 23 Wall Street, and the accompanying memo is a list of the original and secondary groups. The memo which accompanied that letter is also from the New York Central files.

Acting Chairman KING. You found the memo in the files with the letter?

Mr. WHITEHEAD. Exactly; together.

Acting Chairman KING. Would anything in the files indicate who prepared the memo? Was it a part of the letter or attached to it?

Mr. WHITEHEAD. It is attached. He says, Senator, "I am enclosing herewith a list concerning which," and so forth.

Acting Chairman KING. I see.

Mr. WHITEHEAD. Letter dated June 3, 1935, to Mr. M. O. Whiting, of Boston from Mr. W. F. Place, vice president of the New York Central Railway, from that company's files.

Another letter from Mr. Stuart E. Peck to Mr. Willard Place, of the New York Central Railway, dated June 13, 1935, from the New York Central files.

Memo entitled, "Toledo & Ohio Central Railway," over the signature of H. M. Addinsell, dated June 17, 1935, from the files of The First Boston Corporation.

Telegram from Mr. Max O. Whiting, of Boston to Mr. John R. Macomber, chairman of The First Boston Corporation, dated June 21, 1935, from the files of The First Boston.

Telegram initialed "J. R. M.," to M. O. Whiting, of Whiting, Weeks & Knowles, dated June 21, 1935, from the files of The First Boston Corporation.

Mr. NEHEMKIS. Mr. Whitehead, did you ascertain at the time you obtained that document whose initials "J. R. M." were?

Mr. WHITEHEAD. That has reference to Mr. Macomber.

Mr. NEHEMKIS. Mr. John R. Macomber?

Mr. WHITEHEAD. Correct.

Acting Chairman KING. And who is he?

Mr. NEHEMKIS. John R. Macomber is an official of The First Boston Corporation.

Mr. WHITEHEAD. Letter to Mr. George Whitney, on The First Boston Corporation stationery, dated June 28, 1935, signed J. R. M., also identified as John R. Macomber, from the files of The First Boston.

Memo obtained from the files of the Erie Railroad signed by C. B. Post, from the files of the Erie.

Two letters, one to Mr. MacCraig, comptroller of the Atlantic Coast Line, from Mr. H. L. Borden, vice president, dated May 21, 1935, and a letter to Mr. Roland Redmond, dated May 22, 1935, the original of which was signed by Mr. Lyman Delano, and both from the files of the Atlantic Coast Line.

Acting Chairman KING. Is Mr. Delano a director of the company?

Mr. WHITEHEAD. He is chairman of the board.

Another letter dated April 30, 1935, to Mr. Potter, chairman of the Guaranty Trust Co. of New York, the original signed by Mr. Delano, from the files of the Guaranty Trust Co.

A letter to Mr. Anderson, Arthur M. Anderson, of 23 Wall Street, New York, to Mr. Ralph Budd, from the files of the Burlington, dated May 2, 1934.

Another memo initialed "C. I. S." from the files of the Burlington, dated June 13, 1934.

File memo dated July 26, 1934, over the name of A. N. Williams, from the files of the Chicago & Western Indiana Railroad.

Telegram to A. N. Williams, dated November 13, 1934, from W. R. Coe, from the files of the Chicago & Western Indiana.

Telegram from Mr. A. N. Williams, dated November 9, 1934, to Mr. W. Ewing, of J. P. Morgan & Co., from the files of the Chicago & Western Indiana Railroad.

Telegram dated May 9, 1934, from Mr. Ewing to Mr. Williams, from the Chicago & Western Indiana files.

Telegram from Mr. P. V. Davis, of Brown Harriman, to Mr. Williams of the same railroad, dated November 13, 1934, and telegram from Mr. Williams, dated November 14, to Mr. Anderson, from the same files.

Another telegram dated November 14, 1934, to Mr. A. N. Williams from Mr. A. Anderson, from the Chicago & Western Indiana Railroad files.

Another telegram from Mr. A. N. Williams to Mr. W. Ewing, dated November 19, 1934, from the files of the Chicago & Western Railroad.

A letter from, presumably, Mr. Williams to Mr. Ewing, dated December 14, 1934, from the files of the Chicago & Western Indiana.

Mr. NEHEMKIS. Thank you very much, Mr. Whitehead.

Mr. LYONS, step forward, please. Will you look at the document shown you and tell me whether that was obtained from the files of Harriman Ripley & Co., Incorporated, please?

Mr. LYONS. Do I have to be sworn?

Mr. NEHEMKIS. Oh, I forgot. This gentleman has not been sworn.

Acting Chairman KING. Do you solemnly swear that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. LYONS. I do.

TESTIMONY OF BARROW LYONS, ASSOCIATE FINANCIAL ECONOMIST, SECURITIES AND EXCHANGE COMMISSION, WASHINGTON, D. C.

Mr. NEHEMKIS. Now, Mr. Lyons.

Mr. LYONS. This is a memo to Mr. H. C. Sylvester, Jr., vice president of Brown Harriman & Co., and Mr. P. V. Davis, vice president of Brown Harriman & Co., which is from Joseph P. Ripley, dated December 17, 1934, from the files of Harriman Ripley & Co.

Mr. NEHEMKIS. Thank you very much, Mr. Lyons.

Mr. LYONS. There is another. A memo dated February 21, 1935, to Mr. Sylvester, Mr. Davis, and Mr. W. Harmon Brown, from "J. P. R.," from the files of Brown Harriman.

Mr. NEHEMKIS. Who is J. P. R.?

Mr. LYONS. Same as the previous, Mr. Joseph P. Ripley.

Mr. NEHEMKIS. Mr. Chairman, may it please the committee, you have been discussing with us for the past few days a number of case histories, concerning specific pieces of financing. This afternoon we should like to discuss with you a series of transactions which, however, occurred during one interval of time. We are going to discuss with you the maturities of certain railroad bonds which fell due during the year 1935, and as we go along we shall have occasion to identify each issue as we come to it.

Mr. SWAN, will you state your full name and address, please?

Mr. SWAN. Joseph R. Swan, 14 Wall Street, New York.

Mr. NEHEMKIS. And what is your present business connection?

Mr. SWAN. Partner in the banking firm of Smith, Barney & Co.

Mr. NEHEMKIS. Mr. Anderson, will you state your full name and address, please?

Mr. ANDERSON. Arthur M. Anderson, Bedford Hills, N. Y.

PURPOSE OF THE BANKING ACT

Mr. NEHEMKIS. And what is your business or profession, Mr. Anderson?

Mr. ANDERSON. Partner of J. P. Morgan & Co.

Mr. NEHEMKIS. Mr. Anderson, did not the Banking Act of 1933 have as its essential purpose to prohibit any firm receiving deposits from engaging in the issuing, underwriting, selling, or distributing of securities?

Mr. ANDERSON. Yes.

Mr. NEHEMKIS. Mr. Anderson, was not the effective date of this provision June 16, 1934?

Mr. ANDERSON. Yes.

Mr. NEHEMKIS. Did not J. P. Morgan & Co., pursuant to the terms of the banking act, elect to continue its commercial banking business?

Mr. ANDERSON. Its deposit business; yes.

Mr. NEHEMKIS. And to discontinue its securities business?

Mr. ANDERSON. As a result.

Mr. NEHEMKIS. So that after June 16, 1934, pursuant to the provisions of the banking act, J. P. Morgan & Co. was barred from engaging in the business of issuing, underwriting, selling, or distributing securities?

Mr. ANDERSON. Yes.

Mr. NEHEMKIS. Mr. Swan, immediately prior to the effective date of the Banking Act, were you not president of the Guaranty Co. of New York, the security affiliate of the Guaranty Trust Co.?

Mr. SWAN. I was.

Mr. NEHEMKIS. Did not the Banking Act of 1933, Mr. Swan, also provide by section 20 that no member bank of the Federal Reserve System was to be affiliated with any organization engaged in the issue, flotation, underwriting, public sale, or distribution of securities?

Mr. SWAN. I understand so.

Mr. NEHEMKIS. Mr. Anderson, the mechanical separation of the two types of business that we have been referring to was required under the act, was it not?

Mr. ANDERSON. Yes. The securities business, as you defined it by quoting the act.

Mr. NEHEMKIS. Is that your understanding, Mr. Swan?

Mr. SWAN. Yes; that is my understanding.

Mr. NEHEMKIS. And this separation, Mr. Anderson, was considered necessary by the Congress to accomplish the divorce of investment banking from deposit banking?

Mr. ANDERSON. I can't state what was their purpose.

Mr. NEHEMKIS. Do you have any opinion?

Mr. ANDERSON. That was the effect.

Mr. NEHEMKIS. That was the result achieved?

Mr. ANDERSON. Yes.

Mr. NEHEMKIS. Mr. Swan, the separation that we have been discussing was considered necessary in order to accomplish the divorce of investment banking from deposit banking, is that your understanding?

Mr. SWAN. I believe that was the purpose of the act; yes.

Mr. NEHEMKIS. And the objective of the act was to accomplish such a divorce, Mr. Anderson?

Mr. ANDERSON. I assume so.

Mr. NEHEMKIS. And is that your understanding, Mr. Swan?

Mr. SWAN. That is my understanding; yes.

Mr. NEHEMKIS. Now, Mr. Swan, do you recall Chairman Potter's letter to the stockholders of the Guaranty Trust Co. of New York of June 6, 1934, in which he expressed his understanding of the intent of the act?

Mr. SWAN. I do not recall the letter.

Mr. NEHEMKIS. I show you, Mr. Swan, the letter to which I have referred, and ask you to glance at it to see if it refreshes your recollection. (The witness examined the letter.) Mr. Swan, permit me to interrupt you. Did you ever recall seeing that letter?

Mr. SWAN. I do recall seeing the letter.

Mr. NEHEMKIS. That's fine, that's all I wanted.

Mr. SWAN. I didn't know whether you were going to ask me to testify to it or not. I remember the letter.

Mr. NEHEMKIS. The letter identified by Mr. Swan, Mr. Chairman, is offered in evidence.

(The letter referred to was marked "Exhibit No. 1711" and is included in the appendix on p. 12259.)

Mr. NEHEMKIS. Before I relinquish it, may I read just one sentence from it. Chairman Potter had been discussing with his shareholders a number of alternatives confronting the bank after the passage of the act, and he had this to say [reading from "Exhibit No. 1711"]—

With respect to the second alternative, since it is the intent of the Banking Act of 1933 to divest commercial banks of a continuing interest in the securities business, this course seemed objectionable—

with reference to one of the objectives.

May it be offered?

(Senator O'Mahoney resumed the Chair.)

The CHAIRMAN. It may be received.

Mr. NEHEMKIS. In short, I take it, Mr. Anderson and Mr. Swan, that it was the objective of the Banking Act to disassociate deposit banking from the underwriting of securities; is that your understanding, Mr. Anderson?

Mr. ANDERSON. From the risk of the underwriting business; yes.

Mr. SWAN. That's right.

Mr. NEHEMKIS. Now, Mr. Swan, pursuant to the Banking Act, the Guaranty Co. of New York was liquidated by the Guaranty Trust Co., was it not?

Mr. SWAN. I understand—I don't know whether it is completely liquidated or not. It went into liquidation.

Mr. NEHEMKIS. Fine. In June of 1934, did not—

Senator KING (interposing). Voluntarily or involuntarily?

Mr. SWAN. Voluntarily.

Mr. NEHEMKIS. In June of 1934, Mr. Swan, did not the principal officers of the Guaranty Co. join Edward B. Smith & Co.?

Mr. SWAN. Four of the officers of the Guaranty Co. joined Edward B. Smith & Co. as partners. Other officers joined in other capacities.

Mr. NEHEMKIS. Will you give me the names of the former officers of the Guaranty Co. who became partners of Edward B. Smith & Co.?

Mr. SWAN. Myself, Mr. Burnett Walker, Mr. Ritchie Kimball, and Mr.—

Mr. NEHEMKIS. Fish?

Mr. SWAN. Mr. Fish; yes.

Mr. NEHEMKIS. Mr. Irving D. Fish?

Mr. SWAN. Yes; Mr. Irving D. Fish.

Senator KING. I assume the Guaranty Co. was a corporation?

Mr. SWAN. The Guaranty Co. was an affiliate of the Guaranty Trust Co.

Senator KING. You mentioned partners—

Mr. SWAN (interposing). A number of the officers of the Guaranty Co., when the Guaranty Co. ceased under the terms of the Banking Act to be able to do business, we became partners of a private banking house of Edward B. Smith & Co.

Senator KING. But not merely stockholders in that corporation, but partners?

Mr. SWAN. Partners; yes, sir.

Mr. NEHEMKIS. Without being precise, Mr. Swan, how many former employees of the Guaranty Co. joined the staff of Edward B. Smith & Co.? About a hundred, would you say?

Mr. SWAN. Oh, no; maybe 200.

Mr. NEHEMKIS. About 200?

Mr. SWAN. Or maybe 300.

Mr. NEHEMKIS. A large number?

Mr. SWAN. Yes; a large number.

RAILROAD MATURITIES DUE

Mr. NEHEMKIS. Mr. Whitney, during the interim between the time when Section 21 of the Banking Act became operative and the time when Morgan Stanley & Co., Inc., was organized, were there not a number of railroad maturities of companies for whom J. P. Morgan & Co. had previously acted as banker?

Mr. WHITNEY. Probably.

Mr. NEHEMKIS. Do you know?

Mr. WHITNEY. Well, you want me to anticipate?

Mr. NEHEMKIS. I want you to answer the question "Yes" or "No", if you are able.

Mr. WHITNEY. That is the best of my recollection.

Mr. NEHEMKIS. I show you a statement showing a number of maturities which came due at the time we have been discussing, and ask you to glance at these railroad securities and tell me, if you can give me a positive answer. For your information, Mr. Whitney, there were many others. This is but a random sampling.

Mr. WHITNEY. This doesn't say anything about maturities here.

Mr. NEHEMKIS. You were in the banking business for a long time. You should know that question.

Mr. WHITNEY. Why?

Mr. NEHEMKIS. Well—

Senator KING (interposing). Don't argue with the witness; ask him a question.

Mr. NEHEMKIS. I did ask him—

Mr. WHITNEY (interposing). I do know, Senator, that these—I know from my recollection and from the fact that these properties consulted us about these matters, that these bonds did mature during that period. I was probably over precise because I wasn't exactly sure that they matured or whether they were anticipating maturities.

Mr. NEHEMKIS. That is all I wanted to know, Mr. Whitney. You will recall—excuse me, for the convenience of the record, it might be well that I offer this statement at this time, since we will have occasion throughout this hearing—

The CHAIRMAN (interposing). What is the source of the statement?

Mr. NEHEMKIS. Moody's Steam Railroads for the year 1933.

The CHAIRMAN. It may be offered.

Mr. NEHEMKIS. I offer in evidence a table of the maturities which we will be discussing during this session of the committee.

(The table referred to was marked "Exhibit No. 1712" and is included in the appendix on p. 12260.)

Mr. NEHEMKIS. Mr. Whitney, you will recall that in connection with your testimony on A. T. & T., I had occasion to ask you whether any other banking houses ever discussed financial problems with companies for whom J. P. Morgan & Co. was the recognized banker? Now, these railroad companies whose maturities were imminent and placed on the sheet which you glanced at a moment ago, do you

recall whether any other banking houses joined J. P. Morgan & Co. in talking to the management at the time of the refundings?

Mr. WHITNEY. May I be sure I got that question right?

Mr. NEHEMKIS. Will the reporter please read the question?

(The question was read.)

Mr. WHITNEY. The answer is "No."

Mr. NEHEMKIS. That is, Mr. Whitney—just a minute, I want to get your answer, and if you want to comment, we will, as we have always done, when we have finished with the direct examination, give you an opportunity to do so.

Mr. Swan, have you the sheet¹ before you?

Mr. SWAN. No, sir.

THE SPREAD ON THE RAILROAD BOND ISSUES UNDER CONSIDERATION

Mr. NEHEMKIS. Will you borrow it from Mr. Anderson? You will note that the first item is \$8,000,000 for the Nypano or the New York, Pennsylvania and Ohio Railroad. The spread on that issue was 1 point, was it not, or \$80,000—of course, when it was ultimately extended?

Mr. SWAN. The spread on the issue was arranged—its terms were that it was 1 point to be paid on the extension and half a point extra on such bonds as might be purchased by bankers.

Mr. NEHEMKIS. But no new bonds, I am advised by my assistant—

Mr. SWAN (interposing). No new bonds were so purchased.

Mr. NEHEMKIS. Were so purchased, so that the figure I gave you is correct?

Mr. SWAN. Substantially.

Mr. NEHEMKIS. Now, Mr. Swan, the next item is the Toledo & Ohio Central Railway maturity, \$7,500,000, but \$12,500,000 were actually issued. Was there not then a spread of 2 points on the \$12,500,000, or \$250,000? Shall I repeat my question?

Mr. SWAN. I was just looking at my records; I just wanted to confirm that. My records show—no, excuse me, I have the wrong one. I find from my records that that is correct.

Mr. NEHEMKIS. Now, the next maturity was \$4,000,000 of the Wilmington and Weldon Railroad Co., an Atlantic Coast Line subsidiary, of July 1935. Twelve million dollars of the Atlantic Coast Line were actually issued, so that the spread was 2½ points, amounting to \$300,000, Mr. Swan?

Mr. SWAN. There was a spread of 2½ points in that issue; yes.

Mr. NEHEMKIS. Now, the next offering was \$6,300,000 of the Chicago & Western Indiana, due in September and October of 1935, is that correct, sir? Shall I repeat that? Six million three hundred thousand dollars was the actual issue; \$6,100,000 was the amount that matured.

Mr. SWAN. \$6,100,000, according to my record, is the amount which we underwrote.

Mr. NEHEMKIS. And the spread was 2½ points, or \$157,000?

Mr. SWAN. The spread was 2½ points.

Mr. NEHEMKIS. Thank you, Mr. Swan. Mr. Swan, would you

¹ "Exhibit No. 1712."

accept my arithmetic if I said that the total of those spreads which you have gone over with me amounted to \$688,000, subject to your correction?

Mr. SWAN. Subject to my correction; yes.

Mr. NEHEMKIS. Now, Mr. Whitney, may I direct a question to you? The power to designate the houses which were to be in the underwriting and selling syndicates for the refunding of these railroad maturities was the power to distribute nearly \$700,000, is that correct?

Mr. WHITNEY. You are asking me to accept your arithmetic, too?

Mr. NEHEMKIS. By implication.

Mr. WHITNEY. If there were that power, if there were that ability to direct, I suppose it would be a fair assumption.

Mr. NEHEMKIS. Mr. Swan, was it not in fact the decision of J. P. Morgan & Co. which determined among which firms this \$700,000 was to be divided?

Mr. SWAN. I had not thought so. I had thought that it was the decision of the railway companies which were doing the financing.

Mr. NEHEMKIS. Mr. Whitney, was it not the decision of J. P. Morgan & Co. which determined among which firms this \$700,000 was to be divided?

Mr. WHITNEY. Certainly not.

FUNCTION OF J. P. MORGAN & CO. IN REFUNDING OPERATIONS

Mr. NEHEMKIS. Mr. Whitney, what function did J. P. Morgan & Co. have in the refunding of these railroad maturities?

Mr. WHITNEY. A very simple function. We had been in varying degrees financial advisers to these properties for a great, great many years. As you have so clearly pointed out, on the 16th day of June 1934 the law forced a decision upon us as to what branch of banking we were going to continue in, and we followed our historic practice and continued in the deposit business. As I said yesterday, there was, however, nothing in the banking law, and there isn't as far as I know to this day, anything which told us that we shouldn't continue to serve our clients in any way that they requested us to, other than the distribution of securities. In each one of these cases these people who had had banking relations with us for years came to us, predicated on the fact that we no longer could sell securities for them, and said, "What shall we do about these maturities?" In other words, they asked our advice as bankers.

In each one of these cases they were confronted with the fact that the investment banking business had faced the very serious readjustment because of the Banking Act and they wanted to know of the houses which were still in the business which we thought were the ones that would serve them best. The situations are each different, but the underlying reason why they came to us, J. P. Morgan & Co., was because they always had sought our advice and I presume they didn't think merely because we were out of business—out of the investment banking business—that we were also out of the deposit business; and we gave them, as we always have tried to do—we are still doing this—our clients for some reason still come to us for advice—we still give it to them to the best of our ability, and unless the law is changed again I hope that we always will continue to do

so. And that is the simple function that we perform of service to our clients.

Mr. NEHEMKIS. Mr. Anderson, did your firm—

Mr. WHITNEY (interposing). May I just finish, as I didn't answer your question? We did not designate these houses. In each case these houses had direct contacts with the issuing corporation. That is why a minute ago I asked to be perfectly clear in my answer to Mr. Nehemkis' question, Did they join you in discussing these matters with these issuing companies?, and my answer was, "No; they did not join us; they had direct negotiations, direct contacts with these houses in each case." They never to my remembrance (I conducted certain of these conversations—some I didn't; Mr. Anderson did some and Mr. Ewing others), but in no case did we talk to the company with these houses; we were purely and simply advisers to these companies in a rather new field, as it was then, with the personnel in it, and we did not conduct the negotiation; we had nothing to do with the distribution; we had nothing to do with the underwriting whatsoever. In fact, although the law would let us, we didn't even take a fee for this service.

Mr. NEHEMKIS. I turn now to the financing of the Toledo & Ohio Central, the wholly owned subsidiary of the New York Central. Mr. Swan, who decided what firms were to be included in the underwriting and what firms were to be excluded?

THE TOLEDO & OHIO CENTRAL RAILROAD CO. REFUNDING

Mr. SWAN. I don't know.

Mr. NEHEMKIS. Mr. Anderson?

Mr. ANDERSON. I have no knowledge; I had no contact with that.

Mr. NEHEMKIS. Mr. Whitney, the same question?

Mr. WHITNEY. Which company was that?

Mr. NEHEMKIS. Toledo & Ohio Central; who decided what firms were to be included and what firms were to be excluded?

Mr. WHITNEY. Mr. Harold S. Vanderbilt and Mr. Willard F. Place of the New York Central.

Mr. NEHEMKIS. Will you identify each one as to their position?

Mr. WHITNEY. Mr. Willard F. Place was vice president at that time; he is now financial vice president of the New York Central; and Mr. Harold S. Vanderbilt is a member of the executive committee of the New York Central and was at that time handling their financial affairs.

Mr. NEHEMKIS. Mr. Swan, I show you a diary entry entitled "New York Central R. R. Co.," from the files of your office. Do you want to examine it in view of the fact that it is stamped on the back here "Smith, Barney & Co."?

Mr. SWAN. I should like to. Do you expect to examine me on this, or do you just want to identify?

Mr. NEHEMKIS. I merely want you to tell this committee if that is a true and correct copy of an original now in your possession?

Mr. SWAN. I believe so.

Mr. NEHEMKIS. This sheet identified by the witness is offered in evidence.

The CHAIRMAN. It may be admitted.

(The sheet referred to was marked "Exhibit No. 1713" and is included in the appendix on p. 12260.)

Mr. NEHEMKIS. Mr. Chairman, I now read to you two entries from that sheet, an entry dated February 13, 1935: You will find that in the first paragraph of the photostat entered by John W. Cutler, a partner, is he not, of yours, Mr. Swan?

Mr. SWAN. Yes.

Mr. NEHEMKIS. And the entry by John W. Cutler [reading from "Exhibit No. 1713"]:

George Whitney spoke to JRS—

That is Mr. Swan—

and a second time to me, as to coming financing of the Road, about three weeks ago. Anderson—

That refers to you, sir,—

spoke to me again last week and asked what details, if any, GW—

Meaning George Whitney—

had given us. He said he himself was not familiar with the last discussion between GW—

Mr. Whitney—

and H. S. Vanderbilt, and therefore thought it best to wait until Whitney's return about February 18th. He indicated they had not yet, but would probably, also speak to Brown Harriman.

I ask you, sir, now to follow me to the third paragraph from the end, a further entry by J. W. C., May 3, 1935 [reading further]:

Re Toledo & Ohio Central, spoke to G. Whitney. He said nothing would be done for two or three weeks, and that everyone in town had been in to see him about it. Will probably mean that the railroad or JPM&Co. will make up an account and hand it to someone to put thru. (Re Canada Southern, Prudential and Metropolitan went direct to the railroad.)

And now, sir, I ask you to skip to the next, to the last paragraph, diary entry by H. D. M.; that is Mr. Moore of your organization, is it not, sir?

Mr. SWAN. That is correct.

Mr. NEHEMKIS. And this is dated June 22, 1935 [reading further from "Exhibit No. 1713"]:

Working on \$12,500,000 Toledo & Ohio Central offering which it is hoped to release last of next week. First Boston will be leader of business.

Mr. Swan, are these entries that I have read correct?

Mr. SWAN. It is my recollection that the first statement, the statements, to answer your question, I believe are correct transcripts. I should like to comment on the .

Mr. NEHEMKIS. May I ask you one question and then have you comment, if you will, please? Who did make up the account, Mr. Swan. I. P. Morgan & Co. or the road? Now, if you will answer and then comment.

Mr. SWAN. This business was not handled by my firm. We were participants in it. It was handled, in my recollection, as it says here, by The First Boston Corporation. We had nothing to do with making up the account and I can't answer your question.

Mr. NEHEMKIS. Well, then you don't care to comment on your own entries?

Mr. SWAN. I should like to comment on this as far as the first of these paragraphs is concerned. My recollection is that that refers not to Toledo & Ohio Central financing but to possibly future New York Central financing. The other paragraph, like all of the paragraphs in this memorandum, was rather a shorthand account of conversations with Mr. Whitney. We were, like everyone on the Street, eagerly out and aggressively out seeking business, and we went to all of the large institutions everywhere, not only in New York City, but Chicago, Boston, Cleveland, everywhere that we could, to try to get business. Amongst other people that we went to was J. P. Morgan & Co., and this refers to our approach to getting business.

Mr. NEHEMKIS. I want to merely comment on one statement you made. You said this did not refer to Toledo & Ohio, but to New York Central?

Mr. SWAN. Will you let me just refer to my files?

Mr. NEHEMKIS. If you will, sir. I think it refers to Toledo & Ohio. If I am mistaken will you correct me at a later time?

Mr. SWAN. I can correct you now. This is headed, this sheet which you first showed me is headed "New York Central R. R. Co.," and it then goes on [reading from "Exhibit No. 1713"]:

George Whitney spoke to JRS and a second time to me as to coming financing of the road—

And I think it refers to New York Central R. R. Co.

Mr. NEHEMKIS. I accept your word for that, but I would merely point out that the only pending refunding at that time was Toledo & Ohio. Mr. Whitney, I am sorry, I want—

Mr. SWAN (interposing). Excuse me. I just want to continue that point with you. The next sentence says [reading further from "Exhibit No. 1713"]:

During lunch today at First National Bank with Sam Weldon discussion turned to railroad matters and New York Central was brought up.

That was less than a month later and I don't think that that was brought up on account of Toledo & Ohio Central.

Mr. NEHEMKIS. Mr. Chairman, I now read from a letter identified by one of the members of the staff. This letter is from 23 Wall Street. That is your house, isn't it [to Mr. Whitney]?

Mr. WHITNEY. The office.

Mr. NEHEMKIS. And the letter is dated June 18, 1935, addressed to Willard Place, New York Central R. R. Co., and is signed by John M. Young. Mr. Young was then associated with J. P. Morgan?

Mr. WHITNEY. What date is this?

Mr. NEHEMKIS. June 18, 1935.

Mr. HENDERSON. I gather, Mr. Whitney, you don't refer to it as "the House of Morgan"?

Mr. WHITNEY. I do not.

Mr. HENDERSON. Do you refer to it as "the corner"?

Mr. WHITNEY. I do not. J. P. Morgan & Co.

Mr. NEHEMKIS. The letter reads as follows [reading from "Exhibit No. 1714-1"]:

DEAR WILLARD: I am enclosing herewith a list concerning which I spoke to you today.

And attached to it a list on which appear the following: "Original Group," and the following names: Brown Harriman & Co., Inc.;

E. B. Smith & Co.; First Boston Corporation; Lee, Higginson & Co.; Kidder, Peabody & Co. Then appears the caption "Original group" and the amounts for that group; and then the following caption, "Selling group" and the amounts for that group. Underneath that you will find "Secondary group" and a list of houses, together with their names and amounts. I offer in evidence this document.

The CHAIRMAN. It may be received.

(The documents referred to were marked "Exhibit No. 1714-1" and are included in the appendix on p. 12261.)

Mr. NEHEMKIS. Mr. Whitney, would it be correct to conclude that the make-up of the list was determined by J. P. Morgan & Co.?

Mr. WHITNEY. It would not. Mr. Chairman, this whole proceeding, it seems to me, could be very much simplified for the committee if again I repeat, because I may have to repeat it a good many times otherwise, that I haven't made any question of the fact that we were very active in this business. I have said, or tried to make clear a few minutes ago, that our clients who had dealt with us in the past came to us for advice as to how to conduct a certain piece of business; on all these cases the story is exactly the same. In each case we recommended to them that there were certain people who were then the most prominent people in the investment banking business in New York who would be proper people and would give proper service in the job of work they had to do.

We had discussions with—I did, Mr. Anderson did, and Mr. Ewing did, who was then one of our partners—with the seniors, senior partners of these various concerns, or senior officers. We went to this party and that party, as a service for the railroad, to inquire whether these gentlemen would be interested in handling this financing. We went to the railroad company and said we would suggest this or that course. I don't want to give any possible indication that we didn't, that we didn't work just as hard as we could to help our clients. We did. We still do. But when it comes to the inference that we had anything to do with the actual business, I just want to make very clear that we didn't certify these people. When it came down to a decision, it was made by the officers of these various corporations on their own discretion, on their own responsibility, and we merely gave them the best advice that we could as to how they were to handle their job.

The CHAIRMAN. As I understand your explanation of the situation, J. P. Morgan & Co., in compliance with the Banking Act, was going out of the business of investment banking——

Mr. WHITNEY (interposing). Was out.

The CHAIRMAN. And it was not, however, going out of the business of advising its clients, both former clients and new clients, with respect to all matters which might properly come before a banker; that you considered it to be a perfectly proper and legal procedure for J. P. Morgan & Co. to advise a client, the New York Central Railroad, for example, with respect to the manner in which securities might be distributed or by whom they might be underwritten? That in giving that advice you did not consider yourself as being engaged in the business? That you had numerous conversations with the responsible officers of the New York Central Railroad and that you do not deny that from J. P. Morgan & Co. went this letter¹ of June 18, addressed

¹ "Exhibit No. 1714-1."

to Mr. Willard Place, Esq., of the New York Central Railroad, containing a list of security companies; that in making the suggestion you were not engaged in exercising the discretion, but that the discretion was exercised by the company? Have I correctly stated the—

Mr. WHITNEY (interposing). Just exactly.

The CHAIRMAN. So that if the railroad followed your suggestion you considered that to be the responsibility of the railroad and not yourselves?

Mr. WHITNEY. Just exactly.

The CHAIRMAN. Though of course we might also conclude that the railroad, having taken your advice for so many years, it was only natural that it should follow your suggestions and when you made them you had a pretty good idea that the railroad would follow your suggestion?

Mr. WHITNEY. Well, Mr. Chairman, in the banking business, like so many other businesses, you have to be right certainly 51 percent of the time before people think of you. So that it is reasonable—if they came to us and asked our advice—it is reasonable to believe they thought it was advice at least worthy of consideration. Mr. Nehemkis didn't ask me to comment on that particular letter. That of course is a letter from John Young to Place;¹ whether that was a final list I don't know; it may have been; but undoubtedly whoever was the leader in this business—there seems to be some dispute about that—probably told him what they had done. We never had a thing to do with that second list of names there. We dealt in this case, and in one of the others at least, with three principal people, namely E. B. Smith, First Boston, and Brown Harriman. They made up a list of what they thought was an adequate list to distribute these 12 millions of bonds, and I suppose they sent John Young, who was the head of our bond department, this list and he forwarded it to Willard Place.

The CHAIRMAN. What was your testimony with respect to compensation on J. P. Morgan & Co.?

Mr. WHITNEY. I said we weren't even paid a fee for the advice we gave, although we were advised we were legally entitled to it.

Senator KING. Would this be an analogous parallel case: A lawyer of standing in any community with a large clientele is elected to office, or engages in some other business, and concludes that he shall not any longer take the business of his large clientele, and having confidence in him, having taken his advice for years, and been guided by him in all their legal controversial matters, when he advises them that he no longer can act in that capacity but they ask him who would be good lawyers, who is a good man, to look after bonds, another for torts, and so on, and he suggests A, B, C, and D, and they go, pursuant to his suggestion, to the other lawyer whom he recommends. Would that be something analogous to your situation?

Mr. WHITNEY. I think so, Senator King. I ventured to suggest in earlier testimony that I think there is a very close analogy between the relationship between a client and his lawyer, and a client and his banker; it is a professional relationship.

The CHAIRMAN. But you also testified—I remember—that the lawyers didn't want to agree to that analogy.

¹ "Exhibit No. 1714-1."

Mr. WHITNEY. I said sometimes they questioned it; I didn't say they disagreed.

Mr. NEHEMKIS. Mr. Chairman, there is to be attached—but I am offering them separately for the reason that I will explain to you—to the memorandum previously offered, a penciled addition to those lists and those amounts, and they—

The CHAIRMAN (interposing). To the list attached to the letter of June 18, 1925?

Mr. NEHEMKIS. Correct, sir.

May I ask, Mr. Whitney, if I understand you—

The CHAIRMAN. Now, let's get this understood; you are offering now this penciled memorandum on the sheet bearing the figures "216" which is to be regarded as part of the previous exhibit¹—

Mr. NEHEMKIS. Yes, correct sir. The reason I offer them in separate pieces is because they were found in separate places, but our man was told that they belonged together.

The CHAIRMAN. By whom? Who told you that?

Mr. NEHEMKIS. The responsible official of the railroad who opened up the files to us. But I want to be thoroughly correct and strict in this thing, and so I am offering them in two pieces.

The CHAIRMAN. They may be admitted.

(The memorandum referred to was marked "Exhibit Nos. 1714-2" and is included in the appendix on p. 12262.)

Mr. NEHEMKIS. Did I understand you to say that you thought that a possible explanation for that list of proposed underwriters and selling group, with amounts, may have resulted from the fact that some of the underwriters had suggested those names to John Young, and he in turn had passed them on?

Mr. WHITNEY. No; I did not suggest that at all. I think the word I used was that I was merely commenting on them. Willard Place, as I said a little while ago, was a vice president of the New York Central in charge of finance, and as I also tried to show, we were in this advising the New York Central on a financial matter.

Now, I am not attempting to draw any conclusions of what that list was. It merely was that obviously John Young, head of our bond department, was passing on to our client a list of names which would be in the business. I don't know who made it up. I shouldn't doubt that he discussed it with Willard Place. I just don't know. I merely say that my comment was that he was putting this up to our client along the lines of advising with them.

Mr. NEHEMKIS. Mr. Swan, do you have any recollection of ever having made such suggestions to J. P. Morgan & Co.?

Mr. SWAN. Made suggestions about people who should be included in the syndicates?

Mr. NEHEMKIS. Yes.

Mr. SWAN. Yes, indeed.

Mr. NEHEMKIS. You did?

Mr. SWAN. Yes.

Mr. NEHEMKIS. Why have you not furnished us with that information?

Mr. SWAN. I don't know. In connection with the Chicago & Western Indiana, which we managed, you have the list of the syndicate members.

¹ "Exhibit No. 1714-1."

Mr. NEHEMKIS. I now read you, Mr. Chairman, a letter—

Mr. HENDERSON (interposing). Mr. Nehemkis, may I ask this question: Did you [to Mr. Swan] in connection with this furnish to Mr. Young any suggestion as to the make-up of the list?

Mr. SWAN. I couldn't tell you. Your men went through our files—everything that was discussed. It is very possible that after the business was finally definitely arranged, that they were sent by Mr. Young a list of the people who composed the principal group and any that may have been added. I can't answer that. It would have been the regular thing to have done.

Mr. NEHEMKIS. I now read from the letter previously identified, Mr. Chairman, from Mr. Willard Place to Mr. Max O. Whiting, 36 Federal Street, Boston, Mass., June 3, 1935 [reading from "Exhibit No. 1715"]:

Thanks for your letter of the 29th. It is a serious question as to whether the bonds should carry a 3¾% or 4% coupon, but so far the leaning has been to the 3¾ rate. It is also yet to be determined as to just how the sale should be made. The matter is shaping up rather quickly now, however, and I think it will be pretty well decided upon within the next week or 10 days, so you ought to keep rather closely in touch with our friends on the corner.

Mr. ANDERSON. What business is that you are talking about?

Mr. NEHEMKIS. Toledo & Ohio, the subject matter under discussion. I offer it in evidence.

Mr. ANDERSON. I don't think it is.

Mr. WHITNEY. No, sir.

The CHAIRMAN. The exhibit may be received. To what does this refer?

Mr. WHITNEY. The Boston & Albany, another subsidiary of New York Central.

(The letter referred to was marked "Exhibit No. 1715" and appears in full in the text.)

Mr. WHITNEY. As I remember—and I am speaking from memory—New York Central had Boston & Albany bonds in the treasury, and it was a question whether they could sell them. It was not in connection with the maturity, as these—

Mr. NEHEMKIS (interposing). While I do not concede what the witness has said, it is interesting to note, Mr. Chairman, assuming that what he says is true, that the point still holds good. The place to get a participation was not the railroad but "the corner."

Mr. HENDERSON. Mr. Whitney—

Mr. ANDERSON (interposing). He doesn't say that.

The CHAIRMAN. The sentence here, which is the center of this little conversation, reads as follows [reading from "Exhibit No. 1715"]:

The matter is shaping up rather quickly now, however, and I think it will be pretty well decided upon within the next week or 10 days, so you ought to keep rather closely in touch with our friends on the corner.

Now, what is your interpretation of that, Mr. Whitney?

Mr. WHITNEY. I am not trying to interpret, but I suppose it is that Mr. Place had been consulting with us about how they should do their financing. This man, Whiting, Weeks, or something, was up in Boston and was a very close friend of his, and he thought if he wanted to be recommended he had better come in and tell us to recommend him.

That would be perfectly reasonable. He was trying to get business, too.

Mr. HENDERSON. He was trying to get on the list? I gather from what you say that Mr. Place was telling him to go down to your firm and see whether he couldn't be included.

Mr. WHITNEY. No, no.

Mr. HENDERSON. That is what your answer was, I think; am I incorrect?

Mr. WHITNEY. Yes; I'm sorry you got a wrong impression because both Mr. Anderson's recollection and my recollection is that it is an entirely different piece of business. There is no question of a list. I think there were bonds sold for the New York Central to Boston, or——

The CHAIRMAN. There seems to be no dispute with respect to the facts. Recommendations were made. Your dispute is on the meaning of the facts.

Mr. WHITNEY. Certainly. There was no list about it. I have testified with respect to advising these people. I have, in fact, boasted of the fact that we were performing a service for them.

The CHAIRMAN. That is it; you made certain recommendations, and these recommendations apparently were followed. That is all there is to it.

Mr. WHITNEY. Yes. But that would be good advice, wouldn't it?

The CHAIRMAN. That is not for me to pass on.

Mr. WHITNEY. Perhaps not for me, either.

Mr. NEHEMKIS. Will the committee take judicial notice that, according to all the public manuals, the only railroad refunding at this time that was being considered was the Toledo & Ohio?¹

I pass to the next document. I wish to ask you to consider, sir. This is a letter previously identified on the stationery of Adams & Peck, 63 Wall Street, dated June 13, 1935, from E. Stuart Peck to Mr. Willard Place.

Senator KING. Who are they?

Mr. NEHEMKIS. Mr. Peck, I assume, is a member of the firm of Adams & Peck, and they deal in guaranteed bonds and railroad securities, a New York House. Mr. Peck writes as follows [reading from "Exhibit No. 1716"]:

I called at J. P. M. & Co. today and as George Whitney was away for the day, I spoke to Harry Morgan about that matter. I have known him for a long time, mostly in connection with sailing, and somewhat in connection with business. We had a very nice chat about the Toledo bond issue, and he said that they did not know yet how it would be handled, but that he would be very glad to put in a good word for Adams & Peck with whatever group of investment bankers might handle it.

So we will hope for the best; and I thank you very much for giving me your valuable time.

Mr. Swan, do you recall whether Mr. Henry Morgan put in a word for Adams & Peck with E. B. Smith & Co?

Mr. SWAN. In the natural course of events they would not.

Mr. NEHEMKIS. I offer in evidence the letter, Mr. Chairman.

The CHAIRMAN. It may be received.

(The letter referred to was marked "Exhibit No. 1716" and appears in full in the text.)

Mr. NEHEMKIS. Mr. Anderson, to the best of your recollection, who decided to leave Adams & Peck off the list?

¹ See *infra*, p. 12048.

Mr. ANDERSON. I have never had any conversations about any such list that you are referring to, Mr. Nehemkis, so I can't answer that.

Mr. NEHEMKIS. Mr. Whitney, who decided to leave Adams & Peck off the list?

Mr. WHITNEY. Off what list?

Mr. NEHEMKIS. The list of underwriters that Mr. Peck was referring to, that he called on Mr. Harry Morgan about.

Mr. WHITNEY. I don't know.

"MATCHING" FOR THE LEADERSHIP

Mr. NEHEMKIS. Mr. Chairman, I now read to you from a memorandum previously identified, dated June 17, 1935, by Harry M. Addinsell. Mr. Addinsell, Senator King, is the chairman of the executive committee of The First Boston Corporation, and the memorandum is entitled "The Toledo & Ohio Central Railroad."

I read from it as follows [reading from "Exhibit No. 1717"]:

Mr. Whitney, of J. P. Morgan & Co., invited Mr. Ripley of Brown Harriman & Co., Mr. Swan of Edward B. Smith & Co. and myself to come over to their office today to discuss the above proposed issue. The road wishes to sell these bonds to the public at par and proposes to allow the bankers two points. The principals' interests will be as follows:

There appear five names, and the respective amounts after that:

First Boston
Brown Harriman
E. B. Smith
Kidder Peabody
Lee Higginson.

Morgan have a list of, I think, about fifteen or sixteen names of people whom they want to have an amount of bonds, which they have not yet discussed with us, at a set-up of $\frac{1}{2}$ of 1%.

Mr. Whitney, would it not appear from Mr. Addinsell's memorandum that J. P. Morgan & Co. did make up the list?

Mr. WHITNEY. It would not; what it says, of course——

Mr. NEHEMKIS. Now, don't quibble with me, Mr. Whitney, in that way.

Mr. WHITNEY. I am not trying to quibble——

Mr. NEHEMKIS (interposing). I am trying to be courteous and polite to you, and——

Mr. WHITNEY (interposing). I don't mean to quibble, Mr. Nehemkis, I promise you I don't, but they said we had a list of about 15 or 16.

Mr. HENDERSON. You think this refers not to the list, but to whether it is 15 or 16?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS (reading further from "Exhibit No. 1717"):

At the outset Mr. Whitney said they did not want to decide what the order of precedence should be as between Brown, Smith and ourselves.

Mr. Anderson, were you present at that conference?

Mr. ANDERSON. No. I had nothing to do with any part of the negotiations of this business.

Mr. NEHEMKIS. Mr. Whitney, according to the statement that I have just read, is it not a fact that J. P. Morgan & Co. could have decided the precedence, but did not?

Mr. WHITNEY. They asked us to.

Mr. NEHEMKIS. I'm sorry, Mr. Whitney, I must insist that you answer my question. Is it not a fact that J. P. Morgan & Co. could have decided the precedence?

Mr. WHITNEY. Yes; they asked us to.

Mr. NEHEMKIS. Thank you, Mr. Whitney [reading further from "Exhibit No. 1717"]:

So we matched for it—

[laughter]

and that resulted in our being in first place, Brown second and Smith third. In the absence of Mr. Whitney I have advised Mr. Young of J. P. Morgan & Co. to that effect and also of the meeting referred to below.

Mr. Whitney asked us to speak to Kidder and Lee Higginson about it, which I have done, and there will be a meeting of the five principals at this office Tuesday at two o'clock. The mortgage, circular, etc., are already pretty well lined up under the direction of Davis, Polk, Wardwell, Gardiner & Reed—

Just for the sake of the record, Mr. Whitney, who are Davis Polk Wardwell Gardiner & Reed?

Mr. WHITNEY. A firm of counselors in New York, who are our counselors.

Mr. NEHEMKIS (reading further):

and understand Mr. Howland Auchincloss and Mr. MacVeigh of that firm are handling the matter and will act as counsel for the bankers.

So it would appear, Mr. Whitney, that the lawyers were already selected, had already done their work. Who selected the lawyers, Mr. Whitney?

Mr. WHITNEY. I don't remember, but—I don't remember.

Mr. NEHEMKIS. The document from which I have read, Mr. Chairman, may it please the committee, is offered in evidence.

(The document referred to was marked "Exhibit No. 1717" and is included in the appendix on p. 12262.)

Mr. SWAN. May I comment on this a moment, please, because according to this [indicating document] I certainly knew more about this business than I have previously testified. Our files do not have any record of this meeting. My recollection of the business is that The First Boston Corporation was selected to handle this business, and that we were in a less important position than this here apparently shows. I apparently was at a meeting which I have entirely forgotten.

Mr. NEHEMKIS. The committee does not care to have us call Mr. Addinsell, does it, on this point? Or is Mr. Swan's explanation sufficient?

Mr. SWAN. I quite accept that. I am just—my memory is at fault.

Mr. NEHEMKIS. I understand, Mr. Swan.

Mr. HENDERSON. This was dated June 17, 1935, this memorandum¹ of Mr. Addinsell's. The principal interests that Mr. Young outlined to Mr. Place are the same as those indicated in Mr. Addinsell's memorandum?

Mr. NEHEMKIS. That is correct, sir, to the best of my recollection.

So that Mr. Swan, apparently from Mr. Addinsell's statement of who were present at the conference which you were present at with Mr. Whitney, it would appear that neither E. B. Smith & Co., nor The First Boston Corporation, composed the list.

¹ "Exhibit No. 1717."

Mr. SWAN. Well, my recollection of that was that The First Boston Corporation were chosen to handle this business, in which event they would have gone ahead, and in consultation with the road with the advice of J. P. Morgan, the road having the advice of J. P. Morgan, and they would compose the list.

I cannot testify as to how the list was composed. I don't know.

Mr. NEHEMKIS. Can you testify at this time that E. B. Smith & Co. did not compose the list?

Mr. SWAN. I would be quite confident that they did not.

Mr. NEHEMKIS. You did not?

Mr. SWAN. I would be quite confident we did not.

Mr. NEHEMKIS. Now, may I ask, Mr. Swan, that further, while J. P. Morgan & Co.—

Mr. SWAN (interposing). Excuse me. May I add to my answer?

Mr. NEHEMKIS. Certainly, Mr. Swan.

Mr. SWAN. It is possible—and it is subject, I think, to my getting the information, if you want it—that we made suggestions for it.

Mr. NEHEMKIS. I accept that, Mr. Swan.

Although J. P. Morgan & Co. declined to decide who should lead, is there any question in your mind that they had the power to do so if they so desired?

Mr. SWAN. Well, I think that is a rather difficult question to answer. In my mind, there isn't any question that in the last analysis the borrowing corporation would decide what bankers they wanted to have. If J. P. Morgan & Co. had wanted any particular firm to lead this business, I don't think they would have arranged for that firm to lead the business without the acceptance of that recommendation by the borrower.

Senator KING. By whom?

Mr. SWAN. By the borrowing corporation.

Mr. NEHEMKIS. I want to recall to you, Mr. Swan, what Mr. Addinsell said who was also present at the conference with you [reading from "Exhibit No. 1717"]:

At the outset Mr. Whitney said they did not want to decide what the order of precedence should be as between Brown, Smith and ourselves, so we matched for it.

Mr. WHITNEY. Mr. Nehemkis—

Mr. NEHEMKIS (interposing). Excuse me, Mr. Whitney.

Mr. WHITNEY. I just—

Mr. NEHEMKIS (interposing). No; I'm sorry, I am addressing my question to Mr. Swan.

Mr. SWAN. I read that, and it is obvious that they did not want to make the decision. Now, whether that decision was on behalf of the road or not, I am not prepared to say, but I presume it was that they were acting as the road's advisers.

Mr. NEHEMKIS. Mr. Swan, as a banker of many, many years' experience in the financial community, under the circumstances here set forth, see if you can answer my question: Could J. P. Morgan & Co., if they so desired under the circumstances we have been discussing, have decided who was to lead?

Mr. SWAN. If J. P. Morgan & Co. had said to one of the three houses, "We want you to lead," we would have followed their suggestion.

Mr. NEHEMKIS. Thank you, Mr. Swan.

Mr. Whitney, you wished to make a comment?

Mr. WHITNEY. I very much regret, Mr. Nehemkis, that you thought I was quibbling a minute ago, because I did not mean to. That was the first thing I wanted to say. As I said a few moments ago, I did not know about the list. But on this particular phase of it that you have been questioning Mr. Swan about, I have the liveliest recollection of it, because of this:

When I first spoke to these people in behalf of the New York Central, I spoke to them together. We have heard something in the last week about this ambition to have certain positions in the business—prestige, and the various reasons such as that. I had deliberately talked to them as three people, and had recommended that one of the three people lead it, also indicating Kidder and Lee Higginson. I remember this very well, because they said, "We can't agree who is going to lead in this business—" in other words, who was going to have precedence in name, "won't you settle it between us?" This was not in my capacity as adviser to New York Central.

I said, "I have nothing to do with it." And I just remember as well as I am sitting here, that I said, "Why don't you match for it?" I never thought they would. And they said, "That would be the only way we could settle it."

Now, there is the simple story, and I remember it because I had never seen business settled quite so quickly as that before. [Laughter.]

CONSULTATION WITH RAILROAD CONCERNING LEADERSHIP

Mr. NEHEMKIS. Now, Mr. Swan, do you have any recollection at this time whether the railroad was ever consulted about who should be the leader?

Mr. SWAN. I have no recollection of that; no.

Mr. NEHEMKIS. In other words, after Mr. Whitney suggested that you toss for it right then and there, depending upon the outcome of the toss of the coin, the leader of that business was determined?

Mr. SWAN. Well, I am prepared to stand by this memorandum¹ here. As I said—

Mr. NEHEMKIS. Mr. Addinsell's memorandum?

Mr. SWAN. Yes; I daresay that is good evidence that we did toss for it. My memory is hazy about this transaction.

Mr. NEHEMKIS. Thank you, sir.

Mr. Chairman, I now read you from a telegram previously identified from Max O. Whiting to The First Boston Corporation, dated 1935, June, 21, 11 a. m. [reading from "Exhibit No. 1718"]:

I understand that Toledo & Ohio business has been turned over to you, Smith, and Brown Harriman much as Albany issue was given to us to handle—

By whom, under what circumstances?

Mr. WHITNEY. By the company.

Mr. NEHEMKIS. Are you sure, Mr. Whitney?

Mr. WHITNEY. You remember a little while ago I rather hesitatingly suggested that Mr. Place's letter² to Mr. Whiting had to do

¹ "Exhibit No. 1717,"

² "Exhibit No. 1715," *supra*, p. 12014.

with Albany finance? This confirms it.

Mr. NEHEMKIS. Mr. Whitney, before you get yourself into difficulties, the dates are very different.

Mr. WHITNEY. They are?

Mr. NEHEMKIS. Oh, yes.

Mr. WHITNEY. But the fact remains that this was the Albany transaction. When was this?

Mr. NEHEMKIS. I think it was in April.

Mr. WHITNEY. All I remember, frankly, was that Whiting had done the Albany issue. It was turned over as I said before, and I regret that I don't make myself clear. We advised the railroad to do the business with these four or five houses, whichever you want, and in that sense the railroad had the direct negotiations with these houses, The First Boston, Smith, Brown Harriman, and in the Boston and Albany debenture issue, they had the railroad, and so the records of Whiting, Weeks, and Knowles show.

Mr. NEHEMKIS. I would like to have you listen to the remainder of this telegram [reading further from "Exhibit No. 1718"]:

that the bankers decided among themselves who was to head the business and that some suggestions were made as to who might be included Stop As this is New York Central business and at least distantly related to Albany I don't see how the First Boston Smith and Brown Harriman can fail to include Whiting Weeks and Knowles on terms equal to anyone appearing after the three principals and we feel we are entitled to an interest of five percent as you know Brown and Smith each had seven per cent in Albany.

Could Whiting by chance have been referring to what Mr. Mitchell explained to us, the doctrine known, shall I say, as reciprocal obligation?

Mr. WHITNEY. I have not the remotest idea.

Mr. NEHEMKIS. Mr. Chairman, the telegram is offered in evidence.

The CHAIRMAN. It may be admitted.

(The telegram referred to was marked "Exhibit No. 1718" and is included in the appendix on p. 12263.)

Mr. NEHEMKIS. I now read to you a telegram previously identified, from John R. Macomber of The First Boston to Mr. Whiting, the sender of the previous telegram, who wires as follows [reading from "Exhibit No. 1719"]:

Telegram received. Understand Nevil Ford went over this situation with you yesterday and explained it fully. Stop As a matter of fact business referred to came to First group which included two other houses than those you named all set up and with secondary group named by the road with amounts. Stop

I want you to note that, Mr. Whitney [reading further]:

As a matter of fact, business referred to came to First group—

Meaning First Boston group—

which included two other houses than those you named all set up with secondary group named by the road.

Now, as a subsequent telegram will show, Mr. Macomber was a little confused [reading further]:

We had nothing to do with guiding this and have got to handle as instructed by them. You are of course included in this but cannot see how we can do anything but accept the schedule as presented and over which we have no control Stop Will be in Boston Monday.

The telegram which I have read is offered in evidence, Mr. Chairman.

(The telegram referred to was marked "Exhibit No. 1719" and is included in the appendix on p. 12263.)

Mr. NEHEMKIS. It would seem from the telegram I have just read, Mr. Swan, that Mr. Macomber felt no firm in the group had any power to decide who was to be in and who was to be out. Would that be a fair interpretation from that telegram?

Mr. SWAN. That was what Mr. Macomber says.

Mr. NEHEMKIS. But he was apparently at that time under the misapprehension that the railroad selected the underwriters, since 4 days earlier, on June 17, Mr. Addinsell was clearly aware that the list was made up by J. P. Morgan & Co.,¹ and as you will see from the document I am about to offer, by June 28 he got straightened out.

I now read you from Mr. Macomber's letter dated June 28, 1935, to George Whitney, Esq., J. P. Morgan & Co., 23 Wall Street, New York City [reading "Exhibit No. 1720"]:

The opportunity which was offered us to take part in the Toledo & Ohio Central 3¾% bonds was naturally most satisfactory to us and I do want to thank you very much indeed for your thought of us. We are very grateful.

One of the things which has given me the most satisfaction in the last year has been the attitude of our old friends towards us who had to make quite a readjustment in our business lives and, as I said to a friend of mine this morning, it is sometimes almost embarrassing to have some of our friends do all they do for us. Nevertheless, it is gratefully accepted and I only hope in due course we may be able to be helpful on our side and we are trying to do our part. Your firm certainly has been very good to us and we do appreciate it.

I offer it in evidence, Mr. Chairman.

The CHAIRMAN. It may be admitted.

(The letter referred to was marked "Exhibit No. 1720" and appears in full in the text.)

Senator KING. Your firm, Mr. Whitney, had been doing business with this railroad company before, had it, acting as vendor of or underwriter of its securities?

Mr. WHITNEY. Yes, sir. The T. & O. C. is owned 100 percent by the New York Central, and we have been bankers for them since—oh, since 1880, I think, and we have been fiscal agents of that property up to 1916 when we abandoned that position. They come to us just as they would go to people they had done business with before, and we were trying to help them. The record will show all this. I don't want to do what Mr. Nehemkis might think was quibbling, but I think the record here is perfectly clear. The list was made up by the road, in the final analysis. We advised them—but that doesn't matter. The road made the decision. We advised them as to houses. I have testified that way time and again.

Mr. NEHEMKIS. Mr. Chairman, do you recall that Commissioner Henderson inquired earlier whether the list that was submitted was the same as the list finally made up?

I now offer in evidence a document previously identified which contains that information, may it please the committee.

The CHAIRMAN. What is this?

Mr. NEHEMKIS. It was identified by Mr. Whitehead as having been obtained and given to him by The First Boston Corporation.

¹ "Exhibit No. 1717," supra, p. 12015.

It shows the final selling list and the respective amounts of the various houses on the issue we have been discussing.

Mr. HENDERSON. Made up after Mr. Addinsell got straightened out?

Mr. NEHEMKIS. After Mr. Macomber got straightened out, sir.

The CHAIRMAN. This is the secondary group?

Mr. NEHEMKIS. That is correct, sir.

Senator KING (to Mr. Nehemkis). So that I may properly understand the testimony, is it your contention that if J. P. Morgan for a number of years had been the fiscal agents, financial advisers, of a corporation and had underwritten its securities, and after the Act was passed which called for the dissociation of the corporation, that it was improper for J. P. Morgan, if one of their former clients whom they had served, should ask their advice as to who would be competent to underwrite their securities or buy their securities for them, to suggest somebody?

Mr. NEHEMKIS. Senator King, I am afraid that what I am about to say will shock my good friend Commissioner Henderson who knows I have a lot of opinions on a lot of subjects. Unfortunately at this time I have no opinions whatsoever.

Senator KING. I am very glad to know that. Proceed.

ROLE OF J. P. MORGAN & CO. IN NYpano EXTENSION

Mr. NEHEMKIS. We now turn, may it please the committee, to the financing of the—

The CHAIRMAN (interposing). Has this been marked?

Mr. NEHEMKIS. Not yet.

(The document referred to was marked "Exhibit No. 1721" and is included in the appendix on p. 12263.)

Mr. NEHEMKIS. Now we turn, may it please the committee, to the financing of the Nypano.

Mr. Swan, who determined who the underwriters were to be for the extension of the New York, Pennsylvania & Ohio bonds?

Mr. SWAN. I expect the Erie Railroad.

Mr. NEHEMKIS. Mr. Anderson, I ask you the same question.

Mr. ANDERSON. I know it was the Erie Railroad Co.

Mr. NEHEMKIS. Mr. Whitney, will you give me your answer to that same question?

Mr. WHITNEY. I assume the Erie Railroad. I know nothing about it.

Mr. NEHEMKIS. Mr. Swan, I show you a series of diary entries labeled "New York, Pennsylvania & Ohio Railroad," which purport to come from your files. Will you examine this and tell me whether this is a true and correct copy of an original in your possession?

Mr. SWAN. That is a true and correct copy.

Mr. NEHEMKIS. Mr. Chairman, may I read from the diary entries which have just been identified by the witness? This is an entry by Mr. Swan's partner, Mr. Cutler, December 10, 1934 [reading from "Exhibit No. 1722"]:

George Whitney spoke to me December 7th reference underwriting extension of the \$8,000,000 4½s due March 1st 1935. Said he thought it should be handled 50-50 Brown Harriman and ourselves, and asked me to advise Ripley and arrange a meeting. He suggested the 4% bond be underwritten at par for 1% commission, on theory that about two-thirds of the present holders would take new bonds.

Another entry, 2 days later, by Mr. Swan's partner, Mr. Cutler [reading further]:

BW—

Is that Burnett Walker, Mr. Swan?

Mr. SWAN. Yes.

Mr. NEHEMKIS (continuing):

and I—

Meaning Mr. Cutler—

with Ripley and Davis met with Messrs. Whitney and Anderson yesterday.

Ripley is Joseph Ripley, and Davis is Pierpont Davis, of Harri-man Ripley & Co.

The above was substantially confirmed, with the exception of maturity where 10 to 15 years was suggested.

Suggested by whom, Mr. Anderson?

Mr. ANDERSON. I have no recollection of any such meeting at all.

Mr. NEHEMKIS (reading further):

Time element involved in underwriting approximately 30 days and commitment on such basis would have to be made about February 1st. We assume we would head this account as bankers for Van Sweringens—

Mr. Swan, E. B. Smith & Co., to the best of my knowledge, had never been bankers for the Van Sweringens. You meant the Guaranty Trust Co., didn't you?

Mr. SWAN. Well, the Guaranty Co. had been bankers for them, I think. He used the word—

Mr. NEHEMKIS (interposing). He used the word loosely?

Mr. SWAN. He used it rather loosely, yes.

Mr. NEHEMKIS. He seems to have wrapped himself up with Guaranty for the moment [reading further from "Exhibit No. 1722"]:

We assume we would head this account as bankers for Van Sweringens, but Whitney and Anderson did not want to discuss this phase of it, suggesting we work it out between ourselves and B H & Co.

Mr. Anderson, do you have any recollection of that meeting?

Mr. ANDERSON. Not the slightest.

Mr. NEHEMKIS. Mr. Whitney, do you have any recollection of that meeting?

Mr. WHITNEY. No. I don't doubt it, but I haven't got any recollection of this meeting at all.

Mr. NEHEMKIS. Mr. Whitney, for the sake of the record, I would like you to give plain and clear statements. I asked you a simple question. I will repeat it. Mr. Whitney, do you have any recollection of that meeting?

Mr. WHITNEY. No.

Mr. NEHEMKIS. Thank you, Mr. Whitney [reading further from "Exhibit No. 1722"]:

BW—

That is, Burnett Walker—

and I lunched with Messrs. Ripley and Davis.

I don't think the next one is particularly pertinent. It continues the discussion.

I now offer in evidence the diary sheets from which I have been reading and which have been identified by Mr. Swan.

The CHAIRMAN. They may be received.

(The diary sheets referred to were marked "Exhibit No. 1722" and are included in the appendix on p. 12264.)

Senator KING. Do you want the whole thing in or just what you have read? You indicated which you did not read, didn't you?

Mr. NEHEMKIS. Yes, sir. May I say that my assistant calls my attention to the fact that inadvertently I should have read another paragraph, and this answers your question. I guess we had better put it all in. The line is this [reading from "Exhibit No. 1722"]:

Question of LongDock Co. 6's due next year, brought up, but was left to be discussed if and when it came up. JWC and/or BW arrange to continue with Anderson of JPM & Co.

And that is a dairy entry written by Mr. Cutler, Mr. Swan's partner, dated December 17, 1934.

Mr. SWAN. Is there any reason why the last paragraph should not be read? I mean, it just bears out—

Mr. NEHEMKIS (interposing). I should be happy to, in the interest of getting it complete. Certainly [reading further]:

Agreement with Railroad Company and our associates signed today; letter is being sent out tonight and Railroad Company's Extension Offer and our purchase offer to be advertised tomorrow.

This is a diary entry of February 13, 1935, the new year, and it is entered by Mr. Swan's partner, Karl Weisheit "KW," is that right?

Mr. SWAN. That is correct.

Mr. HENDERSON. Did you have some special reason, Mr. Swan?

Mr. SWAN. Only to show that we were dealing directly with the railroad company.

Mr. HENDERSON. Well, that was at the time of winding up the deal, was it not? There is nothing in the previous sentence to show that you were dealing with anybody else except the Morgan group, is there?

Mr. SWAN. That is, it was written at the time of winding up the deal, but the conclusion of negotiations with the railroad company.

Mr. HENDERSON. And the concluding act, technically, was when you went to the railroad, of course?

Mr. SWAN. No; we conducted the negotiations with the railroad company. I think the gentleman we conducted them with was Mr. Walsh.

Mr. NEHEMKIS. Do you recall, Mr. Anderson, whether the Erie suggested the leadership in that financing?

Mr. ANDERSON. My best recollection of it, Mr. Nehemkis, is that Mr. Walsh came in to see me during the latter part of 1934. He asked for suggestions of various people who would be qualified to do this business, and we discussed their pros and cons. My recollections, and that is not borne out by the record, is that I recommended his going in to talk to the Brown Harriman people, or rather to Mr. Davis, in that office, who, I was confident, had already familiarized himself with the problem.

Senator KING. With whom? Who is Mr. Walsh?

Mr. ANDERSON. Treasurer of the Erie Railroad.

Senator KING. He represented the railroad company in that transaction?

Mr. ANDERSON. Yes, sir.

Senator KING. Do you know what was the initiation of the negotiations which culminated in the transaction referred to in the closing paragraph just called attention to by Mr. Nehemkis?

Mr. ANDERSON. The first recollection of any discussion with—

Mr. NEHEMKIS. (interposing). The reason I wanted Mr. Anderson's recollection on that was that the diary entry from the files of Smith, Barney & Co., beginning in December of 1934,¹ when the negotiations were taking place, contained no reference to discussions with the company, and the first reference which Mr. Swan requested me to read into the record, referring to anything pertaining to the company, appears after the new year, February 13, 1935, and relates merely to the formal signing of the papers.

Mr. SWAN. May I state, Mr. Chairman, that these records, such as we have here, are really quite incomplete? I mean, they constitute memoranda, some of which are from time to time omitted, but they do not constitute memoranda of conversations and they are by no means complete.

Mr. NEHEMKIS. Mr. Swan, do you have any additional memoranda bearing on these subjects?

Mr. SWAN. No; I do not.

Mr. NEHEMKIS. Because if you have, I would like you to give them to us.

Mr. SWAN. Your examiners had access to all our files.

Mr. NEHEMKIS. Then do you withdraw your statement that these diary entries are not complete?

Mr. SWAN. No; I can't withdraw that statement. I think that many times we had conversations which we did not enter in the diary.

Mr. NEHEMKIS. What did you do with those memoranda, destroy them?

Mr. SWAN. They were not memoranda. I am just talking about conversations.

Mr. NEHEMKIS. Oh, I see. I beg your pardon. I misunderstood you. So anything that is recorded in writing—

Mr. SWAN (interposing). Anything that is recorded in writing is in the diary—

Mr. NEHEMKIS. It is in the diary entries?

Mr. SWAN. Not everything was recorded in writing in the diary entry, but you had access to everything that is recorded in writing.

Mr. NEHEMKIS. I just wanted to be clear that I understood you.

Mr. SWAN. I am very confident of that.

Senator KING. Do you recall any of the railroad executives or representatives, lawyers, or otherwise, with whom you had any—you or your firm—conversations?

Mr. SWAN. Well, we had conversations with Mr. Walsh of the Erie, we had conversations with Mr. Delano of the Atlantic Coast Line, we had conversations with Mr. Williams of the Chicago & Western Indiana.

Senator KING. Those preceded your entering into this understanding to buy some of the securities?

¹ "Exhibit No. 1722."

Mr. SWAN. That is correct, yes, sir.

Senator KING. That's all.

Mr. NEHEMKIS. Mr. Anderson, do you recall at this time whether or not Mr. Bradley, chairman of the Erie, had been holding discussions with your firm?

Mr. ANDERSON. Prior to that time?

Mr. NEHEMKIS. At that time.

Mr. ANDERSON. I remember having one talk with him. I can't relate the date to these discussions at all.

Mr. NEHEMKIS. But as you previously testified, J. P. Morgan & Co. were bankers who could, of course, do no underwriting at this time?

Mr. ANDERSON. That is correct.

Mr. NEHEMKIS. Mr. Swan, have you any recollections as to whether or not Mr. Bradley had been negotiating with E. B. Smith & Co. at this time, bankers, who could do underwriting?

Mr. SWAN. I have no recollection. May I just comment upon that, that is, with regards to the Erie business? We were trying to get Erie business at that time. I think it would have been more than probable that we would have gone to Mr. Bradley and asked for his support in getting that business, and also to the other interests, with whom, over a long period of years, we had quite close relations.

Senator KING. Do I understand that J. P. Morgan & Co. was not underwriting or was not, in fact, giving you any part of this business, that you were dealing with the railroad company?

Mr. SWAN. We went to them, as we went to all of these other people, to try to get their support with the railroad company or with the issuer, believing that they would very quickly be consulted and that they would be advising them.

Mr. NEHEMKIS. Mr. Chairman, I offer at this time a copy, previously identified, of the minutes of the railroad. Shall I proceed, sir?

The CHAIRMAN. The exhibit may be received.

(The copy of the minutes referred to was marked "Exhibit No. 1723" and is included in the appendix on p. 12264.)

ADVANTAGES WHICH ACCRUE FROM LEADERSHIP

Mr. NEHEMKIS. At this time, Mr. Swan, was there not some question as to whether E. B. Smith & Co. or Brown Harriman should lead the business?

Mr. SWAN. Oh, I believe we always, on all of these issues, had great discussion as to who should lead the business. It seemed very important to us, the leadership seemed very important to us.

Mr. NEHEMKIS. Now, what are the advantages accruing to a banking house in leading a piece of business?

Mr. SWAN. I think prestige.

Mr. NEHEMKIS. Position in advertising?

Mr. SWAN. Position in advertising.

Mr. NEHEMKIS. Sometimes management fees!

Mr. SWAN. Well, in this case—

Mr. NEHEMKIS (interposing). In this there wasn't, but generally speaking?

Mr. SWAN. Well, if—

Mr. NEHEMKIS (interposing). Isn't also one of the advantages of leadership the ability to conduct negotiations with the company officials?

Mr. SWAN. I don't think particularly.

Mr. NEHEMKIS. How about keeping the syndicate books? Isn't that one of the advantages of leadership?

Mr. SWAN. It is sometimes thought to be.

Mr. NEHEMKIS. And why would it be an advantage to keep the books?

Mr. SWAN. Well, it always is an advantage, I suppose, to be the people who can give out interests in the business.

Mr. NEHEMKIS. Isn't it a fact, Mr. Swan, that the house that keeps the books has the right to make the selections of the other members of the group, and by virtue of having the power to make the selections is in a position to place those other houses under a reciprocal obligation?

Mr. SWAN. I think that sometimes can be inferred. As a matter of fact, in a situation of this sort, I think that everybody—that is, the three leaders, or the two leaders in this account—allocated business on this thing. I would like to say as regards any reciprocal gains, or any reciprocal advantage, that the first job of the banker every time is to do a good piece of business. If he doesn't do a good piece of business, he does not survive. Any reciprocal, so-called reciprocal, advantages are very incidental to any piece of business. The first job of the banker is to try to do a good piece of business in order to have another piece of business, and if he doesn't do a good piece of business he won't have another piece of business.

Mr. HENDERSON. Mr. Swan, do you keep a little black book of reciprocal obligations?

Mr. SWAN. We keep a card in our files which shows the business that we do with other people and the business they do with us.

Mr. NEHEMKIS. I might say, Mr. Henderson, that Mr. Swan has been good enough to make that available to us.

Senator KING. May I ask a question?

Mr. SWAN. But I would like to emphasize that any reciprocal relations are very incidental to this business.

Mr. HENDERSON. They are part of the company records?

Mr. SWAN. We have this card,¹ which is a part of our records, of which you have a copy.

Senator KING. Would the leader be interested, if there were a leader, in the facility with which his associates were distributing and disposing of the securities allocated to them?

Mr. SWAN. That is our first thought. The only way we might choose one person rather than another, where they had equally good abilities to distribute, but our first thought in these things is that every member of a syndicate should make a contribution to the syndicate of some kind, either distributing ability or even, in many cases, the value of a name associated with the business is a contribution.

Senator KING. Would I be wrong in assuming that a leader would be interested in knowing that all of his associates in the syndicate were properly carrying out their function and were selling the securities as rapidly as the market required?

¹ See "Exhibit No. 1888."

Mr. SWAN. We keep a very complete record of the performance of dealers in all syndicates, so that we think we know how well they can perform, what their abilities are, and that is of major importance to us.

Senator KING. Each member of the syndicate would be interested, of course, in the proper discharge of the duties and obligations resting upon the other members of the syndicate?

Mr. SWAN. Very much so.

Senator KING. And I suppose would be in contact with the other members of the syndicate to determine whether or not they were discharging their obligations and making proper sales and distributions of the allocations to them?

HISTORICAL RELATION OF E. B. SMITH & CO. TO ERIE RAILROAD CO. FINANCING

Mr. SWAN. The principal members of a syndicate are very apt to be in consultation about the formation of the group and best interests of the syndicate. Their advice to each one of the leaders is generally sought, and is very valuable.

Mr. NEHEMKIS. Mr. Swan, will you examine the three sheets I now show you and tell me whether you recognize them to be true and correct copies of originals in your custody and your possession?

Mr. SWAN. That is a true copy.

Mr. NEHEMKIS. Will you tell me who Mr. Moore is? I think he is the writer of the memo.

Mr. SWAN. He was an employee of Edward B. Smith & Co.

Mr. NEHEMKIS. I now offer the memo identified by the witness in evidence.

(Senator King assumed the chair.)

Acting Chairman KING. It may be received.

(The memorandum referred to was marked "Exhibit No. 1724" and is included in the appendix on p. 12266.)

Mr. NEHEMKIS. By the way, Mr. Swan, may I have—

Mr. SWAN (interposing). Have I some right to comment on that?

Mr. NEHEMKIS. Would you let me develop my questions, and then as we always do, comment afterward?

Acting Chairman KING. You will have full opportunity to comment upon it, Mr. Swan.

Mr. NEHEMKIS. Was not Mr. Moore formerly an employee of the Guaranty Co.?

Mr. SWAN. He was.

Mr. NEHEMKIS. Do you have a copy of this with you, in your original file? It might be easier to follow as I ask you questions. If not, we will furnish you with a copy.

Mr. SWAN. Would you give me the date of that?

Acting Chairman KING. December 11, 1934.

Mr. NEHEMKIS. Mr. Swan, I notice that Mr. Moore first lists the bond issues of the Erie, the leadership of the syndicate, or the first three or four houses in the syndicate since 1924, and then he goes on as follows [reading from "Exhibit No. 1724"]:

The Guaranty did not have an original interest in any of the above Erie financing but did have a 6% interest in the selling groups formed in connection with the two offerings of \$50,000,000 of First and Refunding Mortgage 5s. I did not check the smaller issues for selling group interests.

He then says, in the second paragraph on the bottom of page 1 :

The Guaranty did not have an original interest in any of the above Erie financing.

He next traces the ownership of the Erie stock, and you see that set forth there. He next traces the original interests and outstanding bank loans, Guaranty Trust, First National's interest being the largest.

He says, in the middle of page 2, under the caption, "Bank loans" [reading further] :

In connection with the outstanding bank loans, the original interests were to be as follows—

And then he lists the various banks.

Then he continues [reading further] :

It should also be noted that the National City Co. was not included.

Do you follow me, Mr. Swan?

Mr. SWAN. Yes.

Mr. NEHEMKIS. Now, I am going to read to you from the first paragraph under the caption, "Miscellaneous" [reading further from "Exhibit No. 1724"] :

In February 1930, Mr. Swan spoke to J. P. Morgan & Co. regarding the Guaranty's interest in Erie financing. J. P. Morgan & Co. thought that they should go over all of their financing in which the Van Sweringens were interested and review the Guaranty's interests. They—

Meaning the J. P. Morgan Company—

recognized the Guaranty's claim on Pere Marquette financing but did not revise the Guaranty's interest in the Erie financing of \$50,000,000 Refunding and Improvement Mortgage Bonds the following April.

Now, will you turn with me, Mr. Swan, to the section called, "Comments," at the bottom of page 3, and Mr. Moore continues [reading further] :

I am inclined to the belief that we should limit our claim to the leadership of the proposed underwriting of the Erie extension to the basis that it is Van Sweringen financing. If we take the position that the stock is owned by Chesapeake & Ohio it is possible that we may open up the claim of Kuhn Loeb to a leading position whether or not they have been invited to consider the business.

And Mr. Moore continues [reading further] :

We must also consider the extent, if any, to which we may be committed to Lee Higginson. In this connection they were included in Chesapeake Corporation (initial issue) because part of the C. & O. stock was at that time owned by Nickel Plate. It was stated, however, at the time that their inclusion and interest were not to constitute a precedent. Also, while they appeared in Allegheny financing the Guaranty Company retained the management fee and warrants.

Mr. Swan, what relation did E. B. Smith and Co. have to Van Sweringen financing, which entitled it to base its claim on the facts herein set forth and which I have read to you?

Mr. SWAN. Well, it was purely on the basis of what we would call a professional, or a personal-professional relationship. When the Van Sweringens did their financing, which my impression was in the year 1922, it was handled by the Guaranty Co. I think it was largely handled by myself and Mr. Burnett Walker.

Mr. NEHEMKIS. When you were with the Guaranty Co.?

Mr. SWAN. When I was with the Guaranty Co.; yes, sir.

Mr. NEHEMKIS. Mr. Swan, I am sorry, but will you ask the gentleman who gave you that information to come back to the stand?

Mr. SWAN. Mr. Walker?

Mr. NEHEMKIS. B. W.?

Mr. SWAN. B. W.

Mr. NEHEMKIS. I am not at all interested in what Mr. Walker said, but in the interests of orderly procedure—

Mr. SWAN (interposing). May I tell you exactly what he said?

Mr. NEHEMKIS. It is not necessary. I shall just ask you, Do you accept what Mr. Walker gave as your answer to me?

Mr. SWAN. Yes. It is quite clear.

Mr. NEHEMKIS. All right, I just wanted to have the record show that.

Mr. SWAN. What Mr. Walker said was that a registration statement had just been filed in connection with an issuance for the Chesapeake Corporation, which owned the stock of the Chesapeake & Ohio Railway Co. and was one of the so-called Van Sweringen companies.

Mr. NEHEMKIS. Mr. Swan, did Mr. Moore mean that because Van Sweringen financing had been part of the Guaranty Co. business, that E. B. Smith & Co. had a claim to it?

Mr. SWAN. I didn't finish my answer to the last question. I will start it by saying that we had this very close relation with the Van Sweringens, when we were doing the Nickel Plate financing, in 1922. I think we had continued that close personal relationship ever since.

Mr. NEHEMKIS. When you say, "we," sir, you mean the Guaranty Trust?

Mr. SWAN. No; the Guaranty Co. first and then when Mr. Walker and myself went into Edward B. Smith & Co., the close personal relationship continued, and we renewed it or extended it, whatever word you want, when we went into Edward B. Smith & Co. When we went into Edward B. Smith & Co. we were using every legitimate means in our power to secure business, and this professional relationship which we had, and which we believe is a very important thing in the investment banking business, as Mr. Whitney has explained—the investment banking business has a very professional character. When the Guaranty Co. ceased to exist, we thought that that professional relationship extended to the persons who had helped to create it, and when we were in the Guaranty Co. we did our best to get the relationship with the Van Sweringens and with other issues just as close as we possibly could. When the Guaranty Co. was no longer able to do investment business, we then went to these clients and we urged on them the close personal relationships which we had previously had with them, through our contact when we were members of the Guaranty Co.

Mr. NEHEMKIS. You felt, then, Mr. Swan, that when you and your associates left the Guaranty Co. of which you had been the head, and entered the private banking house of E. B. Smith & Co. that because of your personal and close and intimate relationship to that business, naturally that business followed you?

Mr. SWAN. We made an effort to see that it did follow, and in those cases it did.

Mr. NEHEMKIS. Now, National City Co., Mr. Moore noted, was not included in the banks that had made loans to the Erie, do you recall that?

Mr. SWAN. The memorandum ¹ so states.

Mr. NEHEMKIS. Now, the National City Co. appeared after the Guaranty Co. in the original group of C. & O., Pere Marquette and Missouri Pacific, is that correct?

Mr. SWAN. Those pieces of business were not handled by Guaranty Co.; we were participants, through syndicates, but we were not the managers.

Mr. NEHEMKIS. Would you examine page 3 of Mr. Moore's memorandum.² You will note there that National City Co. appeared after the Guaranty Co. in each instance.

Mr. SWAN. Oh, I—

Mr. NEHEMKIS. Did you misunderstand me?

Mr. SWAN. I think I probably misunderstood you. I didn't say they didn't appear, but I just said those pieces of business were not pieces of business which we managed; they were not so-called our pieces of business.

Mr. NEHEMKIS. Sorry. Was the priority of Guaranty Co. over National City Co. the basis for E. B. Smith's claim of priority over Brown Harriman?

Mr. SWAN. I think our claim of priority over Brown Harriman & Co. was any legitimate claim we could make. We were trying to get the leadership of this business and we put forward every argument that we could think of. Now this memorandum³ that you see here was a memorandum prepared by Mr. Horace Moore.

Mr. NEHEMKIS. I will give you a chance to explain that in detail as soon as we finish the questions.

Mr. SWAN. That is part of your question now.

Mr. NEHEMKIS. You will have full opportunity—the committee will afford it to you, I am sure.

Acting Chairman KING. You will have opportunity to make explanation.

Mr. NEHEMKIS. Mr. Moore recognized in the memorandum⁴ that we have been discussing that the mantle of Guaranty Co. had fallen on E. B. Smith and that the mantle of the National City Co. had fallen on Brown Harriman. This committee has heard testimony from Mr. George Bovenizer of Kuhn, Loeb & Co., who likewise recognized that the mantle of the National City Co. had fallen on Brown Harriman. Now, did Mr. Ripley recognize the validity of these contentions?

Mr. SWAN. I don't know what Mr. Ripley thought.

Mr. NEHEMKIS. I now read to you, Mr. Chairman, from a memorandum by Mr. Joseph P. Ripley to Mr. H. C. Sylvester and Mr. P. V. Davis on the subject of the Erie Railroad which we are discussing, and this memorandum has been previously identified [reading from "Exhibit No 1725"]:

After hearing the whole story, I have seen fit to let E. B. Smith Company head the account on New York, Pennsylvania and Ohio Extension bond proposition. Their name comes first, ours second; interest to be 50/50; managership is to be shown as it was in the Chicago & Western Indiana. Nobody else should be brought into the account until both of us approve, and we both think only the two of us should do the business.

¹ "Exhibit No. 1724."

² Ibid.

³ Ibid.

⁴ Ibid.

I offer this in evidence, Mr. Chairman.

(The memorandum referred to was marked "Exhibit No. 1725" and is included in the appendix on p. 12267.)

Mr. NEHEMKIS. Do you recall, Mr. Swan, that it was only E. B. Smith and Brown Harriman which were to do the entire issue?

Mr. SWAN. At that particular time that apparently was the thought in Mr. Ripley's mind, as expressed to his associates.

Mr. NEHEMKIS. How did it happen that Kuhn, Loeb; White, Weld; Clark, Dodge; and Goldman, Sachs & Co. were subsequently included?

Mr. SWAN. I think that we thought they would be an addition to the business and help it.

Mr. NEHEMKIS. Mr. Swan, will you examine the document I now show you and tell me whether you recognize this to be a true and correct copy of an original in your possession?

Mr. SWAN. That is a true copy.

Mr. NEHEMKIS. Mr. Chairman. I offer in evidence the document identified by the witness.

(The document referred to was marked "Exhibit No. 1726" and is included in the appendix on p. 12268.)

Acting Chairman KING. It may be received. Now, Mr. Swan, you may make the explanation.

Mr. SWAN. All I wanted to say in regard to this memorandum,¹ was that Mr. Moore, who was an employee of ours, and was very anxious to bring to our attention any arguments that we might make whereby we would gain leadership or advancement in our cause of business, prepared this memorandum. Some of it is prepared from data; he tells me some of it came out of his memory. It is his presentation of the arguments that we might use to try to get leadership of this business. Very little of it, in my opinion, had validity. The real argument which we thought we had for getting leadership in this business was the close connection of many years of Mr. Walker and myself with the Van Sweringens who were at this time—or who had previous to this time—or who at this time, yes, who at this time controlled Erie Railroad, one of their railroads. We had very close associations with them.

I have no doubt that in the course of this discussion that we probably talked to the Van Sweringens; we probably talked to Mr. Bradley; we missed a trick if we didn't; we were doing everything we could to get business and to get important positions in the business.

Mr. NEHEMKIS. Is there any question in your mind, Mr. Swan, concerning the accuracy of any of the statements made by Mr. Moore?

Mr. SWAN. I don't doubt the accuracy of the statements, but I doubt the validity of the inferences.

Acting Chairman KING. Let me ask a question there. Was there during the period covered by the memorandum to which reference has been made, anterior and subsequent to that period, was there and is there rivalry among bond houses to secure positions in the syndicates for the sale of securities, and having securities?

Mr. SWAN. I think there is the most intense competition in our business, both before business is secured and after business is secured,

¹ "Exhibit No. 1724."

to get position and large interests in the business. I think the competition is very keen all the time.

Acting Chairman KING. Did the Guaranty Co. have rather an important place in the vending of securities?

Mr. SWAN. I think the Guaranty Co.—it would probably be immodest to say it—I think we were probably about the best distributors of securities, retail distributors of securities. [General laughter.]

Acting Chairman KING. I think that modesty is entirely warranted. When did it cease to operate and when did this mantle—using the expression of my friend here—fall upon somebody else's—if it did—shoulders?

Mr. SWAN. The Guaranty Co. ceased to operate, I think, on the 15th of June 1934. At that time Edward B. Smith & Co. took over the major part of their organization; four officers of Guaranty Co., as I have testified, became partners in Edward B. Smith & Co. This sales organization to which you have referred I think was taken over practically in its entirety. Edward B. Smith & Co. was perfectly qualified; had the qualities which I think are necessary for an investment banker to have, to handle the business that the Guaranty Co. previously handled.

We naturally went out and pressed that as much as we could and pressed previous relationships as hard as we could. We succeeded in retaining, I should say, most of the business that the Guaranty Co. had previously done.

Acting Chairman KING. Is the investment business so uncertain and subjected to so many dangers so that its mortality, speaking generally over a long period of years, is very great?

Mr. SWAN. I wouldn't like to go into that too intimately.

Acting Chairman KING. At any rate it isn't absolutely watertight business?

Mr. SWAN. I think it is an extremely hazardous business and as far as the present time is concerned, the profits of it are most limited.

Acting Chairman KING. When you guarantee the issues of railroad companies particularly, is there any certainty of any profits at all? Judging from the past?

Mr. SWAN. Judging from the past, these issues I have been reviewing, these issues here, and thinking about them, these issues were all issues which needed good salesmanship, needed people who could properly explain securities and who were known as people who could do a good placing job.

Acting Chairman KING. Isn't there hesitancy—I will put it that way—upon the part of some of these investment companies in underwriting the guaranteeing of the bonds which they take over, or is there very great desire to underwrite obligations?

Mr. SWAN. Well, of course, it depends upon the character of the obligation. The very highest class obligations are very much sought for; there are some other obligations which presumably are perfectly good, but are less easily salable that are not so much sought for. I think it varies as to the eagerness with which people seek interests as to their apparent salability.

Acting Chairman KING. I assume that when a corporation desires to obtain capital with which to refund or to meet new issues that it is concerned as to the character, standing, and prestige of the various investment companies with which it seeks affiliation?

Mr. SWAN. I think I would put it this way: I think they require sufficient capital to know that the obligation which the underwriter may take is assured. I think the next—I think all of these—no one of these is good without the other. An investment banker must have capital, he must have integrity, and he must have competence.

Acting Chairman KING. I assume, then, that some investment bankers have larger capital than others?

Mr. SWAN. Yes; that is true.

Acting Chairman KING. And to that extent if they have a good name, good character for integrity and honesty, they may have some advantages over other investment bankers?

Mr. SWAN. Well, I don't think—I don't think I would go too far on that. Capital is only one attribute which is necessary, and after you get up to capital of a certain amount, the capital which is sufficient to guarantee the obligation which you take, capital beyond that is not so particularly necessary.

Acting Chairman KING. The moral stamina and moral character have a great deal to do with the position which an investment banking organization will have in the community?

Mr. SWAN. I thoroughly believe so and I think that isn't enough. I mean capital and integrity aren't enough. I think that the banker has to be competent; he has to know his business.

Mr. O'CONNELL. May I ask a question, Mr. Swan? A moment ago you expressed some concern about possibly unwarranted inferences that might be drawn from Mr. Moore's memorandum.¹ What did you have in mind more specifically than that?

Mr. SWAN. I just meant that some of the things that he put forward as arguments as to why we should have that business didn't seem to me very good arguments.

Mr. O'CONNELL. Specifically were you referring to the nature and extent of the so-called reciprocal obligation that has been discussed?

Mr. SWAN. No. Well, may I just look at that? I don't know that I know just what you are referring to.

Mr. O'CONNELL. I am not at all clear on what you were referring to when you made the general statement.

Mr. SWAN. All I was saying was that here are a number of things that are recorded here on these several pages which are put forward as arguments as to why we might claim position over Brown Harriman & Co. in the leadership of this business, and one or two of the things that I have spoken of here were valid arguments. I think a good many that were spoken of here did not constitute valid arguments, and I think the inference is—maybe this will answer your question—the inference is that all of this constituted valid arguments. It really was just bringing up before us the things that we might consider as to whether they were valid or not.

FORMER ASSOCIATION OF PARTNERS OF E. B. SMITH & CO. WITH GUARANTY
CO. AS A VALID CLAIM TO LEADERSHIP

Mr. O'CONNELL. Well, would you consider the fact that you and other members of E. B. Smith & Co. had formerly been connected

¹ "Exhibit No. 1724."

with the Guaranty Co. is a valid argument to be used in this connection?

Mr. SWAN. Yes; I certainly thought that was a valid argument, that our old relationship over a period of years with the people who now controlled this property constituted a valid argument as to why we should get leadership in this business.

Mr. HENDERSON. Have you finished?

Mr. O'CONNELL. Go ahead.

Mr. HENDERSON. I have no desire to interfere with the proper questioning by the committee. I would like to point out, however, we gave a sort of commitment to Mr. Whitney and his associates that we would try to get them through by tomorrow night.

Acting Chairman KING. If you will stop speaking now we will hurry along.

Mr. NEHEMKIS. You recall, Mr. Swan, I asked you if you had any knowledge as to why White, Weld & Co., or Kuhn, Loeb or Clark, Dodge were subsequently included. I want to read you from a memorandum which you have just identified and which is now in evidence, as follows [reading from "Exhibit No. 1726"]:

We were advised by Mr. Arthur Anderson, of J. P. Morgan & Co., that White, Weld & Co. had been associated with J. P. Morgan & Co. or Drexel & Co. in the underwriting of a number of former Erie extensions and commented that they had approached him in connection with the underwriting of this extension. Mr. Anderson did not specifically request that we include White, Weld & Co. but he was pleased when informed that we had offered White, Weld & Co. an interest of 15%.

After Kuhn, Loeb & Co. had been offered and had accepted an interest of 10%, we learned that they had approached J. P. Morgan & Co. concerning the business.

I note, there, Mr. Swan, that K., L. went direct to J. P. Morgan & Co., rather to E. B. Smith or Brown Harriman. I continue to read from this memorandum by Mr. Cutler [reading further]:

An interest of 5 percent was offered to Clark, Dodge & Co.

By the way, Mr. Anderson, do you know Mr. Francis Ward?

Mr. ANDERSON. Very well.

Mr. NEHEMKIS. Had Mr. Francis Ward formerly been with J. P. Morgan & Co.?

Mr. ANDERSON. Yes.

Mr. NEHEMKIS. And then he went to Clark, Dodge & Co.?

Mr. ANDERSON. Yes.

Mr. NEHEMKIS. I continue reading from the memorandum of Mr. Cutler, Mr. Swan [reading further from "Exhibit No. 1726"]:

An interest of 5 percent was offered to Clark, Dodge & Co. because of Mr. Francis Ward's recent affiliation with the firm.

We considered offering a participation to Morgan Grenfell & Co., Limited.

Mr. Swan, why did you consider it necessary to offer a participation to a London house?

Mr. SWAN. A great many of these bonds were held in Holland and England. As a matter of fact in making up this list strength was added to the business by the fact of having Kuhn, Loeb; White, Weld; Clark, Dodge, in this business, because they were all very well known names abroad. That was one of the influences in choosing those people.

Now as far as Clark, Dodge is concerned, it says here we included them because of Mr. Francis Ward's recent affiliation. That is true.

Mr. NEHEMKIS. I was just asking about Morgan Grenfell.

Mr. SWAN. Morgan Grenfell of course were located in London where their name also—where it would be useful to have them helping this business along, which required deposits and exchanges, and so forth.

Mr. NEHEMKIS. Would I be entirely mistaken, Mr. Swan, if I suggested that one reason why you may have wanted to offer a participation to Morgan Grenfell & Co., Ltd., of London was because of its, shall I say, association with J. P. Morgan & Co. of New York?

Mr. SWAN. I haven't any doubt but what that—that we, of course, knew that and maybe that is the reason their name was suggested to our minds. Of course they are very well and favorably known over there and would add to the business. Each one of these people would help the business.

Acting Chairman KING. Were securities sold abroad in Holland?

Mr. SWAN. This was not a question, Senator, of selling securities. This was the extension of an outstanding issue and there were a great many of these bonds held in Holland and in England.

ATLANTIC COAST LINE RAILROAD CO. REFUNDING—ROLE OF J. P. MORGAN & CO.

Mr. NEHEMKIS. Mr. Whitney, did J. P. Morgan & Co. arrange the \$12,000,000 Coast Line financing in May of 1935?

Mr. WHITNEY. Well, we advised a great deal with Mr. Delano, the chairman of the board of the Coast Line, because they had this record that you introduced earlier, not only these maturities but also a bank loan was coming due.

Mr. NEHEMKIS. Bank loan to J. P. Morgan & Co.?

Mr. WHITNEY. We had an interest in a six and a half million dollar loan, if I remember right. Again here we had, I think, started doing business with the Atlantic Coast Line Railroad and Louisville & Nashville Railroad back somewhere prior to 1880, and our relations there had been particularly close. Mr. Delano, who was the chairman, was a very close personal friend of ours and he had shortly before succeeded Mr. Henry Walters, who had been chairman for years, and we certainly did everything in our power to assist in it. I think I arranged—we were very active—this particular transaction myself, up to the point of discussion, and I know I did everything I possibly could to help Mr. Delano.

Mr. NEHEMKIS. Mr. Swan, will you glance at these diary entries which purport to come from your files, and tell me whether they are true and correct copies of originals in your possession?

Mr. SWAN. They are.

Mr. NEHEMKIS. I offer them in evidence, Mr. Chairman.

Acting Chairman KING. They may be received.

(The diary entries referred to were marked "Exhibit No. 1727" and are included in the appendix on p. 12268.)

Mr. NEHEMKIS. Mr. Whitney, will you follow me as I read you some of these entries by Mr. Cutler, Mr. Swan's partner?

Diary entry, 9/20/34 [reading from "Exhibit No. 1727"]:

JRS—

Mr. Swan—

and I spoke to GW regarding possible financing. Road wants to sell about \$12,000,000 bonds when it can. Business pretty fair first six months but falling off now. No reason why we should not approach Lyman Delano direct, which we plan to do.

Would that mean, Mr. Swan, that Mr. Whitney consented to your approaching Mr. Delano, chairman of the Atlantic Coast Line?

Mr. SWAN. I think it meant that Mr. Whitney thought it would be an advisable thing for us to do.

Mr. NEHEMKIS. I'm sorry, I didn't quite get it.

Mr. SWAN. I think it meant that Mr. Whitney thought that it would be an advisable thing for us to do. As a matter of fact, Mr. Cutler happened to be a personal friend of Mr. Lyman Delano, and we went to Mr. Whitney because of his well-known connection with the road. Mr. Whitney said, or we asked possibly, Shall we talk to Mr. Delano, and he said, "Well, yes, go ahead."

Mr. NEHEMKIS. And you did talk—

Mr. SWAN (interposing). And we talked to Mr. Delano.

Mr. NEHEMKIS. To Mr. Delano, because Mr. Cutler subsequently noted in his diary that he [reading further from "Exhibit No. 1727"]:

and JRS lunched with Lyman Delano, Chairman, today. Delano said he had extended his six months' loan with the banks (JPM & Co. loans secured by General 4½% bonds) for another six months from October 1st.

I am just skipping along here [reading further]:

JWC to see GW—

Mr. Whitney—

and follow. I reported the above conversations to Anderson of JPM & Co., in Mr. Whitney's absence abroad.

Continuing [reading further]:

Reported to Whitney conversation JRS and I had with Delano as above. Loan extended to April 1st. George Whitney called JRS yesterday and said that Mr. Delano had seen him and he thought it was time to consider doing something. He—

Meaning George Whitney—

also spoke of our discussion with him some months ago as reported above. It was left we were to study the situation and decide what, in our opinion, could be done, and go back to GW.

I continue, Mr. Swan [reading further]:

JRS and I talked with G. Whitney and told him we would be very much interested in considering the underwriting of \$12,000,000 of above bonds, but felt before talking more definitely we would like to have additional information.

Skip along a few sentences, if you will [reading further]:

Whitney will speak to Brown, Harriman and then advise Delano he has spoken to both of us. He further indicated on account of the old three-way account that he assumed BH & Co. should lead.

Mr. Whitney, the old trio account was made up of J. P. Morgan & Co., First National, and National City, according to your previous testimony? Is that correct? Can you answer me yes or no?

Mr. WHITNEY. Yes; I think so. May I ask for that again?

Mr. NEHEMKIS. I said, Mr. Whitney, that the old trio, according to your previous testimony before this committee, had been made up of

J. P. Morgan, First National, and National City. Will you answer that yes or no, if you can?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. So that, Mr. Whitney, you recognize Brown Harriman as the heir of the National City Co.?

Mr. WHITNEY. No.

Mr. NEHEMKIS. You repudiate that statement?

Mr. WHITNEY. What statement?

Mr. NEHEMKIS. That I have just read to you purporting to be a conversation.

Mr. WHITNEY. The best answer will be the next sentence.

Mr. NEHEMKIS. I am now continuing with the diary entries [reading further from "Exhibit No. 1727"]:

Ran into G. Whitney again and in view of what we thought he indicated yesterday regarding leadership, reminded him that in the three issues of Coast Line securities since the war, J. P. M. & Co. had appeared alone, the last issue for the three-way appearance being in 1915. He said he realized that and merely indicated to us yesterday that he considered ourselves and B. H. & Co. 50-50, leaving us to work out leadership between us.

That is not in conflict with any question I have asked you.

Mr. HENDERSON [to Mr. Whitney]. You didn't give him an answer to the question. He asked you whether you repudiate Cutler's dairy entry there?

Mr. WHITNEY. I merely meant, Mr. Henderson, that I thought the next sentence which I had read ahead rather showed there had been some mix-up in Cutler's recollection of what I had said. He said, "he merely indicated to us yesterday that he considered ourselves and B. H. & Co. 50-50."

So apparently the next day I hadn't meant quite what Mr. Cutler meant in his previous memorandum.

I acknowledge perfectly freely there had been a three-three account, but I don't remember ever saying to Mr. Cutler that I thought Brown Harriman should lead, and that is supported by what Mr. Cutler himself says the next day. Isn't that right?

Mr. NEHEMKIS. Just a moment, Mr. Whitney. I want to point out, if I may, to the Chair, the diary entry by John W. Cutler dated January 10, 1935, which reads as follows [reading from "Exhibit No. 1727"]:

Whitney will speak to Brown Harriman and then advise Delano he has spoken to both of us. He further indicated on account of the old three-way account—

That is the old trio arrangement, Mr. Chairman—

that he assumed B. H. & Co. should lead.

Mr. Whitney, of course, having this before him, jumps ahead and then reads from Mr. Cutler's entry of January 11, 1935, but those two things are separate statements, and my reference and my question, sir, was directed to Mr. Cutler's diary entry of January 10, 1935.

Acting Chairman KING. Then the statement made by Mr. Whitney is sufficient answer, it explains it. He repudiates it in the sense of a categorical statement, but he makes the explanation.

Mr. WHITNEY. I thought, sir, you asked me whether I recognized that Brown Harriman inherited the City Company business and I said "No" to that.

Acting Chairman KING. Proceed.

Mr. HENDERSON. Just one more question on that. Mr. Cutler said very plainly that you had said to him that you assumed, on account of the old three-way arrangement, that Brown Harriman & Co. should lead, and your direct answer to that is what? Did you or didn't you tell Mr. Cutler that?

Mr. WHITNEY. I haven't the slightest recollection of that, Mr. Henderson. It was a long time ago. It is quite extraordinary that I should have spoken to E. B. Smith first, if I had thought that Brown, Harriman should lead.

Mr. NEHEMKIS. I would merely observe, Mr. Chairman, and I will promise to move on rapidly, that it would appear from these diary entries that Mr. Whitney was not able to make up his mind until after, when Mr. Cutler brought to him certain additional facts which apparently had escaped Mr. Whitney's attention, such as that J. P. Morgan & Co. had appeared alone in the last issue for the three-way appearance, being in 1915, and it would seem that after these additional facts had been brought to Mr. Whitney's attention, he changed his earlier view.

I shall proceed as I have indicated.

Acting Chairman KING. But I assume that the entry there should be construed as the whole procedure.

Mr. NEHEMKIS. Mr. Whitney, you indicated that there was an Atlantic Coast Line loan at this time with J. P. Morgan & Co. Is that correct?

Mr. WHITNEY. I indicated there was a loan with the banks of which we had a participation, if my recollection serves me, which was a six and a half million loan altogether. We had a million dollar participation, and we had arranged the loan for Mr. Delano with the other things.

Mr. NEHEMKIS. Mr. Whitney, is it not a fact that part of the proceeds of this issue were used to pay off some of the railroad's bank loans?

Mr. WHITNEY. Certainly. That was the purpose of the loan.

Mr. NEHEMKIS. And J. P. Morgan & Co. was likewise paid off when the issue was floated?

Mr. WHITNEY. Certainly; they paid us all.

Mr. NEHEMKIS. Mr. Whitney, you and I sometimes have difficulties about precision in language, so will you do me the great courtesy of listening attentively to my next question? While I do not wish to imply that this particular repayment was in any way improper, it did, however, involve the very situation which the Banking Act sought to obviate. Is that not so, Mr. Whitney?

Acting Chairman KING. You mean the Banking Act prohibited making a loan to pay off an obligation of the bank?

Mr. NEHEMKIS. No, sir. As I understand the provisions of the Banking Act, it was to prevent the proceeds derived from flotation of securities to pay off obligations owing to a bank.

Acting Chairman KING. How would a corporation then, owing to a bank, pay its obligations if it had no credit and had no more money, that is if it had no money and had to borrow or sell securities.

Mr. NEHEMKIS. I don't want to testify. If you want me to, I will take the stand.

Mr. WHITNEY. The answer to your question, Mr. Nehemkis is "No."

Mr. NEHEMKIS. You don't consider that the situation described was in conflict in any way with the Banking Act?

Mr. WHITNEY. I do not. I never even heard it suggested.

Mr. NEHEMKIS. Bearing in mind, of course, that I have clearly indicated I personally see nothing improper about the transaction.

Mr. Chairman, I now offer in evidence a memorandum and letter previously identified, from the files of the Atlantic Coast Line Railroad Co.

Acting Chairman KING. It may be received.

(The documents referred to were marked "Exhibits Nos. 1728-1 and 1728-2" and are included in the appendix on pp. 12269 and 12272.)

Mr. NEHEMKIS. Mr. Whitney, is not generally patronage one of the advantages sometimes derived from underwriting? Perhaps if you find difficulty in answering that, I will read to you from this letter by Mr. Delano.

Mr. WHITNEY. May I have the question first?

Mr. NEHEMKIS. Would you read back the question?

(The reporter read Mr. Nehemkis' last question.)

Mr. NEHEMKIS. Did you get that? By that I mean the ability of a banker to name trustees and registrars, and where funds are to be placed on deposit, and so on. We have had some testimony to that effect earlier.

Mr. WHITNEY. It is a new idea to me.

Mr. NEHEMKIS. Let me read you this letter, Mr. Whitney. This is by Mr. Delano, to Mr. William C. Potter, chairman of the Guaranty Trust Co. of New York, dated April 30, 1935 [reading]:

DEAR MR. POTTER: The Atlantic Coast Line Railroad Company has agreed to sell to Brown, Harriman & Co., Incorporated, and Edward B. Smith & Co. \$12,000,000 Ten-Year Collateral Trust Notes, secured by \$25,000,000, of our General Unified 4½% Bonds.

Mr. Whitney, if you will please listen to the following [reading further]:

At the suggestion of Mr. George Whitney, we have designated the Guaranty Trust Company of New York to act as Trustee of this indenture.

Did you understand my question, Mr. Whitney, when I referred to patronage as being one of the attributes of a banking house?

Mr. WHITNEY. I understood your question, but I was doing a little work for the Guaranty Trust Co. of which I was a director.

Mr. NEHEMKIS. And also you were a member at that time of the executive committee, if I recall correctly.

Mr. WHITNEY. That is quite so.

Mr. NEHEMKIS. And J. P. Morgan had elected to discontinue its underwriting business in 1934, wasn't that what you said, Mr. Anderson?

Mr. ANDERSON. Your date was June 16, 1934.

Mr. HENDERSON. I ought to say, Mr. Whitney, that I think counsel was compelled to ask you to give your opinion on these two matters that have been brought up, since they came to our attention in the course of the inquiry. It was an obligation on the part of counsel to raise those two questions and to get your answer.

Mr. WHITNEY. It is all right with me.

CHICAGO & WESTERN INDIANA RAILROAD CO. REFUNDING—ROLE OF J. P. MORGAN & CO.

Mr. NEHEMKIS. We now turn, Mr. Chairman, unless you think nightfall is too much upon us, to the Chicago & Western Indiana R. R. refunding, and I think we will be through in about 15 minutes.

Acting Chairman KING. Do you guarantee that, underwrite it? [Laughter.]

Mr. NEHEMKIS. I underwrite it. [Laughter.]

Acting Chairman KING. We will take a recess until 10 o'clock sharp.

Mr. NEHEMKIS. As soon as we conclude this.

Acting Chairman KING. I didn't say that.

Mr. NEHEMKIS. Mr. Swan would have to stay overnight.

Acting Chairman KING. Would you like to leave this capital of the Nation tonight, Mr. Swan?

Mr. SWAN. Senator, I would like to meet your wishes in any respect, but I would love to go home. [Laughter.]

Acting Chairman KING. I would like to meet your wishes, proceed.

Mr. SWAN. There is a conflict of interest here that I think should be divorced. [Laughter.]

Mr. NEHEMKIS. Mr. Whitney, the Chicago & Western Indiana financing in the fall of 1935 was a matter of purchasing a block of Chicago & Western Indiana bonds from the Burlington and also selling a block from the Chicago & Western Indiana's treasury, wasn't it?

Mr. WHITNEY. I really can't testify of my own knowledge, except from these records that I have seen. I had nothing whatever to do with it.

Mr. Anderson can answer, of course.

Acting Chairman KING (to Mr. Nehemkis). Can you answer the question?

Mr. NEHEMKIS. It was purely a technical question for the record. As I understand it, the Chicago & Western Indiana financing in the fall of 1935 was a matter of purchasing a block of Chicago & Western Indiana bonds from the Burlington and also selling a block from the Chicago & Western Indiana's treasury, wasn't it [to Mr. Anderson]?

Mr. ANDERSON. The financing of the Western Indiana was the sale of treasury bonds. The sale of bonds for the Burlington was not of any immediate importance to the Chicago & Western Indiana R. R. Co. They had already passed out of their possession some years before.

Mr. NEHEMKIS. Mr. Anderson, did J. P. Morgan & Co., manage that business and select the underwriters?

Mr. ANDERSON. No.

Mr. NEHEMKIS. Mr. Swan, will you examine a document which my assistant will show you, and tell me whether it is a true and correct copy of an original in your possession?

Mr. SWAN. It is. Do you want me to read it?

Mr. NEHEMKIS. No, I don't want you to read it, I want you to identify it.

Mr. SWAN. I do.

Mr. NEHEMKIS. I would like to offer this in evidence.

Acting Chairman KING. It will be received.

(The memorandum referred to was marked "Exhibit No. 1729" and is included in the appendix on p. 12272.)

Mr. NEHEMKIS. I want to read you a part of this memorandum which has been identified as coming from the files of E. B. Smith & Co. [reading from "Exhibit No. 1729"]:

Brown Harriman & Co., Incorporated, and Edward B. Smith & Co. were invited by J. P. Morgan & Co. to consider the purchase and sale of a block of \$1,658,000 Chicago and Western Indiana R. R. Co. First and Refunding Mortgage 5½% Series C Bonds owned by the Chicago, Burlington and Quincy R. R. Co. It also developed that the Chicago and Western Indiana wished to sell \$6,340,000 5½% Series A Bonds for refunding purposes. An investigation of the Chicago and Western Indiana was undertaken jointly by Brown Harriman and ourselves without any determination by J. P. Morgan & Co., or the two of us concerned of the question of leadership. Morgan said it was up to the two houses to settle this matter between themselves. Brown Harriman claimed the leadership primarily on the grounds that the National City Company had a historical and appearing position in former syndicate offerings. Our claims to the leadership were based primarily on the ownership of 2/5 of the capital stock of the Company by the Van Sweringen interests which were to acquire an additional 1/5 when and if the Wabash decided to withdraw. Our offer to toss a coin for the leadership was declined and as a counter proposal it was suggested that the question be referred to J. P. Morgan & Co. for decision.

Mr. Anderson, will you follow me on the next paragraph? [reading further]:

These conversations were concluded on a Friday night by Messrs. Davis, Sylvester and the undersigned and on the next morning Mr. Davis arranged for a meeting with Mr. T. S. Lamont who was the Morgan partner available that morning. In the meantime, however, I talked to several partners and it was decided that we would offer the leadership to Brown Harriman, we, however, to be joint in everything else, including managership.

So, Mr. Swan, from that statement by your associate, Burnett Walker, admittedly J. P. Morgan & Co. had the power and the right to assign leadership between Brown Harriman and E. B. Smith, but simply preferred, for whatever reasons available at the time, not to exercise it. Is that correct?

Mr. SWAN. My interpretation of it would be that they would say to us that we were joint and we were to decide it between ourselves. We were finding it difficult to decide it between ourselves and we therefore tried to get them to arbitrate it. We made up our minds that it was a much wiser thing for us to say to Brown Harriman & Co., "You go ahead and lead it."

Mr. NEHEMKIS. And on the basis of the opening paragraph I read, is it not a fact, Mr. Swan, that clearly J. P. Morgan & Co. selected the underwriters and was considered to be in complete control of the situation?

Mr. SWAN. I think if that had been written in completeness it would have said, "J. P. Morgan on behalf of the Railroad Company."

Acting Chairman KING. At any rate, Brown Harriman were selected as leaders?

Mr. SWAN. We conceded the leadership to them without further action.

Mr. NEHEMKIS. Will you examine that and tell me if that is a true and correct copy of the original in your possession? Identify the document for me, please.

Mr. SWAN. I do.

Mr. NEHEMKIS. I offer this in evidence.

Acting Chairman KING. It may be received.

(The memorandum referred to was marked "Exhibit No. 1730" and is included in the appendix on p. 12273.)

Mr. NEHEMKIS. I now offer in evidence a document previously identified.

(The memorandum referred to was marked "Exhibit 1731" and is included in the appendix on p. 12273.)

Mr. NEHEMKIS. Mr. Anderson, will you examine a letter from yourself to Mr. Ralph Budd, of the Chicago, Burlington & Quincy Railroad Co., dated April 30, 1934, and tell me if that is a true and correct copy?

Mr. ANDERSON. Yes, sir.

Mr. NEHEMKIS. Will you look at this and tell me if you are familiar with that memorandum?

Mr. ANDERSON. Yes, sir.

Mr. NEHEMKIS. These are offered.

(The letter and memorandum referred to were marked "Exhibits Nos. 1732 and 1733" and are included in the appendix on pp. 12273 and 12274.)

Mr. NEHEMKIS. Will you examine these, Mr. Swan, and tell me if they are true and correct copies?

Mr. SWAN. They are.

Acting Chairman KING. I assume without reading that they have some relevancy to the inquiry?

Mr. NEHEMKIS. I am trying to "underwrite this deal" for you, Senator.

Acting Chairman KING. They may be received.

(The telegram and the diary entries referred to were marked "Exhibits Nos. 1734 and 1735" and are included in the appendix on p. 12275.)

Mr. NEHEMKIS. Mr. Anderson, will you glance at this memorandum and tell me if you recognize it as a true and correct copy?

Mr. ANDERSON. Yes.

Mr. NEHEMKIS. Offered.

Acting Chairman KING. It may be received.

(The memorandum referred to was marked "Exhibit No. 1736" and is included in the appendix on p. 12275.)

Mr. NEHEMKIS. I now offer 11 documents previously identified and bearing upon the subject of this discussion.

Acting Chairman KING. Who is Mr. Sylvester?

Mr. NEHEMKIS (to Mr. Whitney). Mr. Sylvester is vice president of the investing banking house of Harriman Ripley & Co., Inc.; correct?

Mr. WHITNEY. Correct.

Mr. ANDERSON. Mr. Nehemkis, this memorandum seems to be dated around the middle of July 1934. I was absent on a holiday abroad at the time, I think.

Mr. NEHEMKIS. Which memorandum?

Mr. ANDERSON. This memorandum from Walker.

Mr. NEHEMKIS. That is an undated memorandum.

Mr. ANDERSON. It refers to a meeting on July 17, 1934. I never heard of this meeting which is referred to, and at which T. S. Lamont was present.

Mr. NEHEMKIS. May I suggest after the meeting is adjourned you and Mr. Walker and Mr. Swan get together on this? I am merely offering what is written here.

Acting Chairman KING. You may correct it; if you were out of the United States, you may indicate it in the record. These documents may be received.

(The documents referred to were marked "Exhibits Nos. 1737 to 1747" and are included in the appendix on pp. 12276-12279.)

Mr. NEHEMKIS. Mr. Whitney, I asked you a question at the outset of these hearings. I am now going to repeat that question to you and see if you don't perhaps care to change your answer. It would appear, Mr. Whitney, that the power to determine to whom these railroad refundings were to be distributed was the power to distribute about \$700,000 of gross income. Would you agree, Mr. Whitney?

Mr. WHITNEY. I see no reason to change my former answer. But Mr. Chairman—

Mr. NEHEMKIS (interposing). Thank you, sir. I want to get my documents in and then you can comment. Does it relate to that point?

Mr. WHITNEY. Oh, yes; it relates to that point.

Mr. NEHEMKIS. To the specific point or the general subject matter?

Mr. WHITNEY. I will be glad to wait.

Mr. NEHEMKIS. You will recall we discussed this morning, Senator King, a stipulation¹ by C. E. Mitchell, concerning a number of documents which I have been offering. I now want to offer another document pursuant to that stipulation, but before handing it to you, let me read it to you. You will recall that we have been discussing the refunding of the Atlantic Coast Line. Now on June 17, 1936, after Morgan Stanley & Co. was organized, Morgan Stanley brought out an offering of \$26,000,000 of Louisville & Nashville Railroad Co. first and refunding bonds.

What is the relationship, Mr. Anderson, between the Louisville & Nashville Railroad and the Atlantic Coast Line?

Mr. ANDERSON. The Atlantic Coast Line controls the Louisville & Nashville by ownership of a majority of the capital stock.

Mr. NEHEMKIS. This is a memorandum, you will recall, by Mr. C. E. Mitchell [reading from "Exhibit No. 1748"]:

Morgan, Stanley & Co. will offer the above mentioned issue probably next week, or possibly the week following. * * *

Harold Stanley explained that, owing to the fact that when J. P. Morgan & Co. withdrew from the investment banking business, the First Boston Corporation, Brown Harriman, and E. B. Smith & Co. had handled some Louisville & Nashville financing, they had been obliged to give them a preferential position over us.

Do you know anything about that, Mr. Swan?

Mr. SWAN. I am sorry, I thought you were asking Mr. Anderson.

Mr. NEHEMKIS. Did you hear what I just read? Mr. Stanley explained to Mr. Mitchell who was hoping to get a better position for his company that he couldn't do it in the L. & N. issue because of the fact that during this period we have been discussing J. P. Morgan & Co., he says, withdrew from the investment banking business and your firm, Brown Harriman and First Boston handled some of the Atlantic Coast Line business. Therefore, he said he was obliged to give your firm and the other two a preferential position.

Mr. SWAN. It is very difficult for me to testify, I should think, on a memorandum of Mr. Mitchell's referring to a conversation with Mr. Stanley.

Mr. NEHEMKIS. I thought you might by chance know something about it.

I offer this in evidence.

¹ "Exhibit, No. 1691."

Acting Chairman KING. It may be received.

(The memorandum referred to was marked "Exhibit No. 1748" and is included in the appendix on p. 12279.)

OPINION OF DAVIS POLK WARDELL GARDINER & REED RELATIVE TO BANKING
ACT OF 1933 AND RELATION OF J. P. MORGAN & CO. THERETO

Mr. NEHEMKIS. Mr. Alexander, may I trouble you for a moment? I show you a carbon copy of a memorandum addressed to you from myself dated Washington, D. C., November 8, 1939. Do you recall seeing and receiving the original?

Mr. ALEXANDER. Yes; I do.

Mr. NEHEMKIS. It is offered in evidence.

Acting Chairman KING. What is the purpose of that? Is it information you asked for?

Mr. NEHEMKIS. That is correct, sir, just to complete the record.

Acting Chairman KING. Is there any contention about it?

Mr. NEHEMKIS. No. This was an *aide memoire* to assist him in getting the material for us.

Acting Chairman KING. It may be received.

(The memorandum referred to was marked "Exhibit No. 1749" and is included in the appendix on p. 12280.)

Mr. NEHEMKIS. Mr. Alexander, I show you a letter dated November 1, 1939, and ask you if that is a copy of a letter you sent me.

Mr. ALEXANDER. It is.

Mr. NEHEMKIS. I have here four opinions from Davis Polk Wardwell Gardiner & Reed to Messrs. J. P. Morgan & Co. Examine those and tell me if they are true and correct copies.

Acting Chairman KING. What is the relevancy?

Mr. NEHEMKIS. These are legal opinions obtained by the firm of J. P. Morgan & Co. from their counsel indicating to them certain factors about which I wish to examine one of the witnesses.

Mr. ALEXANDER. These are the copies of opinions that I sent to you.

Acting Chairman KING. There is nothing about relations between client and counsel?

Mr. NEHEMKIS. No, sir.

Mr. WHITNEY. We gave them voluntarily, sir.

Mr. NEHEMKIS. I misunderstood you. These were made available by Mr. Alexander.

Acting Chairman KING. They may be received.

(The documents referred to were marked "Exhibits Nos. 1750 to 1755" and are included in the appendix on pp. 12282-12286.)

Mr. NEHEMKIS. Mr. Alexander, will you read the next to the last paragraph on page 4 of the *aide memoire* of November 8, 1939.

Mr. ALEXANDER (reading from "Exhibit No. 1749"):

In this connection, it is to be noted that the only general opinion of counsel furnished by J. P. Morgan & Co. is the opinion dated May 29, 1934, and that no specific opinion nor memorandum of specific discussions has been furnished that bear upon the aspect of the question raised by Mr. Wardwell. Three opinions dated July 22, August 21, and December 14, 1935, have been furnished by J. P. Morgan & Co., but each such opinion deals with legal problems connected with the respective bond issues, but not with the position of J. P. Morgan & Co. under Section 21a of the Banking Act of 1933.

May I read from the opinion of Mr. Wardwell, of November 1, 1939, concerning the applicability of section 21a of the Banking Act of 1933 [reading from "Exhibit No. 1755"]:

We have reviewed this question from time to time and have had no occasion to change our opinion.

As you know, we consider it advisable for the firm to follow the existing practice of examining with us the character of any particular transaction that may be under consideration in order that the firm be assured that such transaction falls within the scope of the general opinions which we may have given the firm from time to time.

Mr. NEHEMKIS. At this time, do you care to make any comment in regard to my communication to you from which you have read?

Mr. ALEXANDER. No.

Mr. NEHEMKIS. Thank you, sir.

I have no further questions, sir.

Acting Chairman KING. Mr. Whitney, you had some further explanation.

Mr. WHITNEY. This last evidence just given shows that we were obviously very much alive in '34 and '35 to what we could and could not do under the new set of affairs. All I really wanted to say before that was, as I said in the beginning, if I can do a little boasting, I would like to say we would have tried to do our duty for our clients, which is to give them every possible service we can, and that this whole arrangement was forced upon us and the rest of the banking community by the change in the laws, and we were trying to adjust ourselves to that position, and these all follow the same pattern. The clients came to us and asked us to do a job. We did it as well as we knew how, and advised them to the best of our knowledge and belief as to who would perform a proper service for them.

That is really all I have to say.

Acting Chairman KING. I assume you had some uncompleted business, you had many clients and they came to you in the course of business and called for persons to take over some of the activities in which you had been engaged, and you gave them the advice upon their questions as to the persons or corporations or investment companies that could best serve them?

Mr. WHITNEY. And assisted them just as much as we could within the legal limitations by which we were bound.

Mr. HENDERSON. Mr. Whitney, in that connection, you take the position, I gather from your last statement, that none of the services you performed in this period contravene the Banking Act?

Mr. WHITNEY. Absolutely.

Mr. HENDERSON. Leaving aside for a minute the legal phases, or leaving them aside entirely, a number of those functions you performed in this "switch-over" period are functions which are performed by underwriting houses, is that not correct?

Mr. WHITNEY. No, sir; I don't quite agree with that, because what we did was to advise clients of ours who in the past had traditionally come to us for advice and they didn't have the acquaintanceship, the relationship that Mr. Swan referred to that he had established with his clients, with anybody but with us at the time. They had to deal with others, and what we did in an extended service to these people varied a little bit in these issues, but none of those services had to do with the service of negotiation on price except insofar as we advised the borrowing corporation in two instances, to my knowledge, as to whether we thought the terms suggested by the underwriters were fair.

Mr. HENDERSON. I was late and I don't want to get into an extended argument, but I would like you to go back to the explanation you gave to this committee, which you volunteered at one of the earlier hearings, as to the functions performed by an investment banker, and I would like you to lay that alongside of some of the functions you performed in these cases under discussion this afternoon. I would like to have your considered answer, whether it would still be "No."

Mr. WHITNEY. Do you want me to attempt to do this now, or do you want a considered answer reviewing the situation?

Mr. HENDERSON. I would like your considered statement of the functions you perform. You have made several statements for the record as to what you consider that function to be. There has been laid on the table today a series of functions which you performed which you say were strictly banking functions for certain former clients of yours. I would like you to lay them together and tell me at some future time whether the answer is still "No."¹

Mr. WHITNEY. The answer is "No."

Mr. NEHEMKIS. Mr. Chairman, there is one document I forgot to offer. This has been identified by Mr. Whitehead who appeared earlier.

Acting Chairman KING. It may be received.

(The memorandum referred to was marked "Exhibit No. 1756" and appears in Hearings, Part 22, appendix, p. 11795.)

Mr. NEHEMKIS. I would like to have a telegram admitted from Mr. George Leib, and may I give you a word of explanation why I ask you to do this.

Mr. HENDERSON. Is that the telegram which was sent collect? [Laughter.]

Mr. NEHEMKIS. Yes, sir. Mr. Leib was asked the question as to whether or not Harrison Williams had ever held any stock in Blyth & Co. Strictly speaking, Mr. Leib's answer was responsive to my question. Mr. Leib, however, feels that there may be some misunderstanding about that in the minds of some of the members of the committee, and so that there may be no misunderstanding he has indicated and shown how and why and where Harrison Williams has held stock in Blyth & Co.

Acting Chairman KING. It may be received.

(The telegram referred to was marked "Exhibit No. 1757" and appears in Hearings, Part 22, appendix, p. 11826.)

Acting Chairman KING. Have you additional questions of these witnesses? May they all be excused, including Mr. Whitney?

Mr. NEHEMKIS. Oh, no, sir; Mr. Whitney is going to be with us tomorrow.

(The witnesses, Mr. Anderson and Mr. Swan, were excused.)

Acting Chairman KING. The committee will stand adjourned until 10:30 tomorrow morning.

Mr. HENDERSON. The Insurance Subcommittee will meet at 10:30 tomorrow in room 357, Senate Office Building.

(Whereupon, at 5:15 p. m., a recess was taken until Wednesday, December 20, 1939, at 10:30 a. m.)

¹ Mr. Whitney, in a letter, dated January 26, 1940, submitted the information requested. It is included in the appendix on p. 12321.

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

WEDNESDAY, DECEMBER 20, 1939

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:45 a. m., pursuant to adjournment on Tuesday, December 19, 1939, in the Caucus Room, Senate Office Building, Senator Joseph C. O'Mahoney presiding.

Present: Senators O'Mahoney (chairman) and King; Messrs. Henderson, Lubin, Avildsen, Kades, Hinrichs, and Brackett.

Present also: Holmes Baldridge, Department of Justice; Clifton M. Miller, Department of Commerce; Willis J. Ballinger, Federal Trade Commission; Ganson Purcell, Securities and Exchange Commission; Peter R. Nehemkis, Jr., special counsel; Samuel M. Koenigsberg, associate attorney; David Ryshpan, financial analyst; Oscar L. Altman, financial analyst; and Lawrence Brown, investigator, Securities and Exchange Commission.

The CHAIRMAN. The committee will please come to order.

Will you call your first witness, Mr. Nehemkis?

Mr. NEHEMKIS. Mr. Harold Stanley.

The CHAIRMAN. The chairman has received a letter from Mr. C. B. Sawyer, president of The Brush Beryllium Co., submitting certain material for the record in connection with the hearings on beryllium.¹ Without objection, this may be printed in the record at the appropriate place.

(The letter and material referred to were marked "Exhibit No. 1758-1 to 1758-3," and are included in the appendix on pp. 12286-12290.)

Mr. NEHEMKIS. Mr. Chairman, you will recall that the day we opened our proceedings, in the afternoon session we had occasion to discuss the financing of the Chicago Union Station bonds. In the course of the testimony of Mr. Bovenizer, there was a question as to whether or not certain contentions made by counsel were accurate, and as our usual procedure is, I requested Mr. Bovenizer to check his own books and advise us whether he still felt that way.²

I am in receipt of a letter under date of December 18, 1939, from Mr. Bovenizer, who advises as follows [reading from "Exhibit No. 1759-2"]:

DEAR MR. NEHEMKIS: I have your letter of the 14th instant in connection with my testimony of the other day on Chicago Union Station bonds and I find upon further examination that your figures are quite correct, not only as to percentage but as to amount also.

Regretting that my error should have caused you this additional trouble and with appreciation of your courtesy—

¹ Hearings on the development of the beryllium industry appear in Part 5.

² Hearings, Part 22, p. 11436.

and so forth and so on.

May this be inserted in the record at the appropriate place, sir?

The CHAIRMAN. Without objection, it may be so inserted.

Mr. NEHEMKIS. Together with the accompanying letter to Kuhn, Loeb.

(The letters referred to were marked "Exhibits Nos. 1759-1 and 1759-2 and appear in Hearings, Part 22, appendix, pp. 11797 and 11798.)

The CHAIRMAN. The Chair wishes to announce that a subcommittee of this committee is conducting insurance hearings in room 357 in this building. If there are any witnesses who have been subpoenaed for the insurance hearing who are in this room, they should be in room 357.

Mr. NEHEMKIS. Mr. Chairman, may it please the committee, one further matter before proceeding with the business at hand: Yesterday afternoon, you may recall, Mr. Chairman, that we were discussing one of the interim pieces of financing, the Toledo & Ohio, and the question was raised by Mr. Anderson whether it was actually the Toledo & Ohio financing or some other financing.¹ I have reference now to our "Exhibit No. 1715," and so that the record may be clear, I merely want to read briefly from yesterday's proceedings:

QUESTION. I now read from the letter previously identified, Mr. Chairman, from Mr. Willard Place to Mr. Max O. Whiting. . . .

Mr. ANDERSON. What business is that you are talking about?

ANSWER. Toledo & Ohio, the subject matter under discussion. I offer it in evidence.

Mr. ANDERSON. I don't think it is.

Mr. WHITNEY. No, sir.

Then the exhibit was identified, and Mr. Whitney continued:

The Boston & Albany, another subsidiary of the New York Central—

And then Mr. Whitney continued to explain how it had to be the Boston & Albany.

Now, Mr. Whitney was in error, and I have prepared for you, sir, an abstract from Moody's Manual on Investments of Railroad Securities, which indicates that it was the Toledo & Ohio that we were discussing, and that under no conceivable stretch of the imagination could it have been the Boston & Albany; since so distinguished a banker as Mr. Whitney should have known that the Boston & Albany main line 1's were 4½'s. We were talking about 3½'s.

Mr. MILLER. Mr. Nehemkis, didn't Mr. Whitney say that those Boston & Albany bonds were bonds held in some fund? It wasn't a new issue, it was a block of bonds held by the railroad. They were talking about selling those.

Mr. NEHEMKIS. If he did—

Mr. MILLER (interposing). It is my understanding from the testimony.

Mr. NEHEMKIS. I don't recall it, sir, but I have the testimony before me and a rather hasty glance at it does not indicate, if he said that, that it arose in this connection. I think, Mr. Miller, that you may have reference to an answer by Mr. Anderson in connection with the sale of certain Burlington bonds. I will be very glad to check it for you later.

¹ Supra, p. 12013.

Do you want this in the record or are you satisfied with the statement? [pointing to exhibit].

The CHAIRMAN. I think it is all right.

TESTIMONY OF HAROLD STANLEY, PRESIDENT, MORGAN STANLEY & CO. INCORPORATED, NEW YORK, N. Y.—Resumed

Mr. NEHEMKIS. Mr. Stanley, will you state the date on which Morgan Stanley & Co. was incorporated?

Mr. STANLEY. I testified yesterday that it was September 5, 1913. I now understand that it was September 6—I mean 1935.

Mr. NEHEMKIS. Now, what is the correct answer to the question?

Mr. STANLEY. The correct answer is September 6, 1935.

Mr. NEHEMKIS. Mr. Stanley, I show you certain documents purporting to be the certificate of incorporation of Morgan Stanley, and various amendments thereto. Will you be good enough to examine them and identify them for me?

For your information, Mr. Chairman, these documents will be subsequently offered. They were obtained from the Secretary of State at Albany, N. Y., and bear his authentication.

Mr. STANLEY. I so identify them.

Mr. NEHEMKIS. The four items identified by the witness are offered in evidence, Mr. Chairman.

The CHAIRMAN. They may be received.

(The documents referred to were marked "Exhibit No. 1760-1 to 4" and are on file with the committee.)

OFFICERS AND DIRECTORS OF MORGAN STANLEY & CO., INCORPORATED, AND THEIR PRIOR AFFILIATIONS

Mr. NEHEMKIS. Mr. Stanley, will you be good enough to name the officers and directors of Morgan Stanley & Co. Inc., and will you also at the same time state the business affiliations of these officers and directors prior to their becoming associated with Morgan Stanley & Co. Inc.?

Mr. STANLEY. Have you the list there?

Mr. NEHEMKIS. I do; but I prefer that you give it to me from your material.

The CHAIRMAN. This exhibit,¹ being the certificate of incorporation, is filed with the committee, not printed.

Mr. STANLEY. The list of officers and directors of Morgan Stanley & Co., which we have already furnished you, are as follows: Harold Stanley, president and director. Prior affiliation, partner of J. P. Morgan & Co.

Do you want the date of employment as well?

Mr. NEHEMKIS. If you have it there, you might as well give it.

Mr. STANLEY. Date employed, September 6, 1935, which is the day we opened our office.

William Ewing, executive vice president and director, same date of employment; prior affiliation, partner J. P. Morgan & Co.

Henry S. Morgan, treasurer, secretary, and director, same date of employment; prior affiliation, partner J. P. Morgan & Co.

¹ "Exhibit No. 1760-1 to 4."

Perry E. Hall, vice president and director; former affiliation, partner Drexel & Co.

Edward H. York, Jr., vice president and director, same date of employment; prior affiliation, partner Drexel & Co.

John M. Young, vice president, director, same date of employment; former affiliation, manager bond department, J. P. Morgan & Co.

Allen Northey Jones, vice president and director, same date of employment; prior affiliation, manager statistical department, J. P. Morgan & Co.

Alfred Shriver, vice president and director, date of employment, February 17, 1936; prior affiliation, president and director of Guaranty Co. of New York, in dissolution.

Sumner B. Emerson, vice president and director, date of employment, October 19, 1936; prior affiliation, vice president Fire Association of Philadelphia and associated companies.

Archer M. Vandervoort, assistant treasurer and assistant secretary, date of employment, September 16, 1935; prior affiliation, employee J. P. Morgan & Co.

Mr. NEHEMKIS. At the time of the organization of Morgan Stanley, you, Mr. Stanley, Mr. William Ewing, and Mr. Henry S. Morgan had resigned from the firm of J. P. Morgan & Co., had you not?

Mr. STANLEY. We had.

Mr. NEHEMKIS. But the arrangements in regard to the organization of the new firm were made, were they not, at the time when these individuals whose names I have just mentioned were still partners in J. P. Morgan & Co.

Mr. STANLEY. The arrangements?

Mr. NEHEMKIS. For the organization of the new firm.

Mr. STANLEY. Quite correct.

Mr. NEHEMKIS. The capital stock of Morgan Stanley & Co., Inc., consists, does it not, of preferred stock and common stock?

Mr. STANLEY. It does.

Mr. NEHEMKIS. Were there not issued 70,000 shares of preferred stock at par \$100 per share and 50,000 shares of common stock at \$10 per share, \$5 of which was set up on the books as paid-in capital, \$5 as paid-in surplus?

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. So that Morgan Stanley & Co., Inc., started business with a paid-in capital of \$7,500,000?

Mr. STANLEY. Rather a paid-in capital of \$7,250,000 and \$250,000 paid in surplus. Seven and a half million dollars of money.

Mr. NEHEMKIS. I accept that. On August 7, 1939, was there not authorized an issue of common stock and was not the common stock increased from 50,000 shares to 200,000 shares?

Mr. STANLEY. I am not sure of the date. You undoubtedly have it.

Mr. NEHEMKIS. You may accept my dates subject to correction, if you wish.

Mr. STANLEY. I think that on the date you mention the authorized number of shares increased to 200,000 shares and 150,000 shares as stock dividend.

Mr. NEHEMKIS. And the additional 150,000 shares were distributed to the common stockholders as a stock dividend, as you just indi-

cated, increasing the amount of outstanding common stock to 200,000 shares. Is that correct, sir?

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. And this is the amount of common stock now outstanding?

Mr. STANLEY. It is.

COMMON AND PREFERRED STOCKHOLDERS OF MORGAN STANLEY & CO.,
INCORPORATED

Mr. NEHEMKIS. Were not the three principal common stockholders at the time of incorporation, yourself, Mr. William Ewing, and Mr. Henry S. Morgan?

Mr. STANLEY. They were.

Mr. NEHEMKIS. By the way, is Mr. Henry S. Morgan the son of Mr. J. P. Morgan?

Mr. STANLEY. He is.

Mr. NEHEMKIS. Mr. Stanley, as each of these individuals took something over 20 percent of the stock, do they not now hold between themselves over 60 percent of the common stock?

Mr. STANLEY. They hold, I think, exactly 60 percent between them.

Mr. NEHEMKIS. So that, Mr. Stanley, the controlling interest in the new firm was held by these three former partners of J. P. Morgan & Co.?

Mr. STANLEY. Well, it depends on what you mean by controlling interest. Sixty percent of the voting stock was held by these three individuals.

Mr. NEHEMKIS. Does that mean anything to you?

Mr. STANLEY. The control of a company is in the hands of all the stockholders.

Mr. NEHEMKIS. Mr. Stanley, let's be precise. When three individuals hold 60 percent of the voting stock of the company, does that have any significance?

Mr. STANLEY. If they act together they vote the majority of the stock, certainly, but if you take any one of them and the balance of the stockholders, I don't see how they could have a majority.

Mr. NEHEMKIS. The other common stockholders were Mr. Perry E. Hall, Mr. A. N. Jones, Mr. E. H. York, Jr., and Mr. John M. Young?

Mr. STANLEY. I am sorry, I didn't follow all the names. Undoubtedly it is correct.

Mr. NEHEMKIS. Perry Hall, A. N. Jones, E. H. York, Jr., John M. Young.

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. I believe you have already testified, but I should like you to state again at this time that the other common stockholders whose names I have just given to you were former employees of J. P. Morgan & Co.

Mr. STANLEY. Well, former employees of J. P. Morgan & Co. or partners of Drexel & Co.

Mr. NEHEMKIS. Who was a former partner of Drexel?

Mr. STANLEY. Mr. Hall and Mr. York.

Mr. NEHEMKIS. What is the difference between Drexel & Co. and J. P. Morgan?

Mr. STANLEY. They are the same firm, but Drexel & Co. is the name of the business down in Philadelphia.

Mr. NEHEMKIS. I see, same firm, different name.

Mr. STANLEY. Yes. Understand, that isn't the legal definition. I am not trying to be legalistic about it.

Mr. NEHEMKIS. I quite understand you, Mr. Stanley. So that all of the common stock was held by either former partners or employees of J. P. Morgan & Co.?

Mr. STANLEY. And Drexel & Co.

Mr. NEHEMKIS. In the light of your explanation.

Mr. STANLEY. Quite right.

Mr. NEHEMKIS. At the time of the incorporation of Morgan Stanley & Co., was not the bulk of the preferred stock taken by Morgan partners?

Mr. STANLEY. The bulk of the preferred stock was purchased by certain individual partners.

Mr. NEHEMKIS. If you can answer my question at this time I will give you further opportunity to clarify it by detailed questions later. (The reporter read the immediately preceding question.)

Mr. STANLEY. The bulk of this preferred stock was taken by Morgan partners individually, certain Morgan partners individually.

Mr. NEHEMKIS. Mr. Stanley, I show you a letter from you addressed to me, dated November 27, 1939. Tell me if this is your signature and whether this is a letter which you did send to me?

Mr. STANLEY. It is.

Mr. NEHEMKIS. Will you examine the four sheets attached to the original letter of transmittal? Do you recognize those as having been prepared by your organization?

Mr. STANLEY. I do.

Mr. NEHEMKIS. The documents identified by the witness, Mr. Chairman, are offered in evidence.

The CHAIRMAN. They may be admitted.

(The documents referred to were marked "Exhibit No. 1761" and are included in the appendix on p. 12291.)

Mr. NEHEMKIS. Of the original holders of the preferred stock, only William Ewing and Henry S. Morgan were associated with the new company. Were not all of the other holders partners of J. P. Morgan & Co.?

Mr. STANLEY. I think that is correct.

Mr. NEHEMKIS. As Messrs. Henry S. Morgan, yourself, William Ewing, each purchased about 20 percent of the common stock of Morgan Stanley & Co., was not their investment in the equity of the new company approximately \$100,000 each?

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. Did not Mr. Henry S. Morgan purchase 2,500 shares of preferred stock for \$250,000, and did not Mr. William Ewing purchase 1,500 shares of preferred stock for \$150,000?

Mr. STANLEY. They did.

Mr. NEHEMKIS. So that the total capital investment of Mr. Harold Stanley, president of the new company, was approximately \$100,000?

Mr. STANLEY. As of September 16, 1935, but shortly after that—

Mr. NEHEMKIS (interposing). Just answer the question as you have been given it.

Mr. STANLEY. As of September 16, 1935, yes.

Mr. NEHEMKIS. And that of Mr. Henry S. Morgan, vice president, was approximately \$350,000?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. And that of Mr. William Ewing, vice president, was approximately \$250,000?

Mr. STANLEY. As of that date.

Mr. NEHEMKIS. Did not other officers invest something under—

Mr. STANLEY [interposing]. Excuse me, Mr. Nehemkis, it was somewhat larger, but that is approximately correct.

Mr. NEHEMKIS. You accept that?

Mr. STANLEY. Substantially so.

Mr. NEHEMKIS. Let's see that the record clearly shows your answer. I asked you a series of questions concerning the amount of the investment of yourself, Mr. Henry S. Morgan, Mr. William Ewing, and is your answer, "Substantially correct"? Is that what you want the record to show?

Mr. STANLEY. The amounts you mention are substantially correct.

Mr. NEHEMKIS. Thank you, sir. Now, did not the other officers invest something under \$200,000 in the common stock of Morgan Stanley?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. So that \$6,600,000 of capital in the form of preferred stock was supplied by Morgan partners?

Mr. STANLEY. I don't think I have that.

Mr. NEHEMKIS. Why don't you accept that subject to check?

Mr. STANLEY. I will be glad to.

Mr. NEHEMKIS. So that the officers of Morgan Stanley & Co., Incorporated, supplied but \$900,000 of the original \$7,500,000 capital of the firm?

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. Will you tell me who now hold the common stock of Morgan Stanley & Co., Incorporated?

Mr. STANLEY. Do you want the whole list?

Mr. NEHEMKIS. Run them off quickly.

Mr. STANLEY. Mr. Emerson, Mr. Ewing, Mr. Hall, Mr. Jones, Henry Morgan, Mr. Shriver, myself, Mr. York, Mr. Young.

Mr. NEHEMKIS. Does not Mr. Ewing; yourself, Mr. Henry S. Morgan, each still hold approximately 20 percent of the common stock?

Mr. STANLEY. Mr. Ewing, Mr. Henry Morgan and myself do each hold approximately 20 percent of the common stock.

Mr. NEHEMKIS. Is not the only new holder of common stock Mr. Alfred Shriver?

Mr. STANLEY. And Mr. Sumner B. Emerson.

Mr. NEHEMKIS. And Mr. Sumner Emerson?

Mr. STANLEY. Correct.

Mr. NEHEMKIS. When did Mr. Sumner Emerson acquire common stock in addition to that—I think you covered that in your previous answer when you told me the names of the common-stock holders, didn't you?

Mr. STANLEY. I didn't cover your last question. It is a very simple answer. He acquired it on or about the time he became an officer of our company, which was sometime after he became an employee—I don't know the exact date.

Mr. NEHEMKIS. It is not important. Tell me who the holders of the preferred stock are, if you will?

Mr. STANLEY. As of August 31, 1939, the close of our fiscal year, the holders of our preferred stock were as follows. Do you want the amounts?

Mr. NEHEMKIS. Just give me the names.

Mr. STANLEY. Arthur M. Anderson.

Mr. NEHEMKIS. Well, to save time you might give me the amounts.

Mr. STANLEY. Arthur M. Anderson, 1000 shares. Gaspar G. Bacon and George Whitney, trustees under deed of trust, dated November 13, 1914, 1,700 shares. Robert L. Bacon and Gaspar G. Bacon, as trustees for Martha B. Whitney, 1,700 shares. Francis D. Bartow, 1,000 shares. William Ewing, 1,500 shares. Allen Northey Jones, 200 shares. Thomas W. Lamont, 19,500 shares.

Mr. NEHEMKIS. Let me make sure I have that. Thomas Lamont, 19,500. That is in evidence¹ but I want to put it on my copy.

Mr. STANLEY. Russell C. Leffingwell, 3,400 shares. H. Gates Lloyd, Jr., 850 shares. H. Gates Lloyd, Jr. and Charles D. Dickey, trustees for Richard W. Lloyd, under the will of Horatio G. Lloyd, deceased, 850 shares. Richard W. Lloyd, 850 shares. Richard W. Lloyd and Charles D. Dickey, trustees for H. Gates Lloyd, Jr., under the will of Horatio G. Lloyd, deceased, 850 shares. Henry S. Morgan, 9,800 shares. J. P. Morgan, 3,000 shares. Junius S. Morgan, 2,800 shares. Harold Stanley, 1,000 shares. Charles Steele estate, deceased, 20,000 shares.

Mr. NEHEMKIS. I note that among the new holders of the preferred are yourself, holding 1,000 shares and Mr. Allen Jones holding 200 shares. Mr. Stanley, has any person other than those appearing in the four lists which you have previously identified in the names and amounts you have just given me ever been, to your knowledge, a holder of record or beneficial owner of any shares of either common or preferred stock of Morgan Stanley & Co., Incorporated?

Mr. STANLEY. Well, I can only answer the question about the holders of record; no one has, to my knowledge, in that respect. I can't answer of course about beneficial ownership.

Mr. NEHEMKIS. Who can answer that question?

Mr. STANLEY. Each stockholder, I suppose.

Mr. NEHEMKIS. You, as a principal officer of Morgan Stanley are not aware of that?

Mr. STANLEY. We have no knowledge of the transfer of stock.

Mr. NEHEMKIS. You have no knowledge or information or belief on the subject?

Mr. STANLEY. No; I have none.

Mr. NEHEMKIS. Is not the preferred stock cumulative up to 4 percent, and is it not a nonvoting stock entitled to 6 percent if earned?

Mr. STANLEY. It is.

Mr. NEHEMKIS. It has no rights, however, of any kind other than to receive dividends when, as and if declared, and certain payments on liquidation. In short, it has no right to vote for officers?

Mr. STANLEY. No right to vote for officers or directors.

Mr. NEHEMKIS. In other words, the common stock alone elects the officers and directors?

Mr. STANLEY. It does.

¹ Referring to "Exhibit No. 1761."

LIMITATIONS ON DISPOSITION OF CAPITAL STOCK UNDER ARTICLES OF
INCORPORATION

Mr. NEHEMKIS. Now, is it not a fact, Mr. Stanley, that under the articles of incorporation it is virtually impossible for either the common or preferred stock of the corporation to be sold to anyone who is not satisfactory to the present directors or their successors?

Mr. STANLEY. Well, there are restrictions on transferability.

Mr. NEHEMKIS. Do you accept my statement as a description?

Mr. STANLEY. I am not sure that it doesn't go too far. They can't sell it without offering it to us but if we don't take it they can sell it.

Mr. NEHEMKIS. If one of the holders of stock offers it to you and you are not interested, could it be sold to me, for example—this being a very hypothetical case?

Mr. STANLEY. I think so. You wouldn't get your dividend this year if you bought it. [Laughter.]

Mr. NEHEMKIS. Is that really so, that anyone, for example, could acquire stock of Morgan Stanley if you decided that you weren't interested in purchasing it?

Mr. STANLEY. I will be glad to give you the exact situation subject to correction by my counsel. In brief, the restrictions are on transferability. If the holders of preferred stock want to sell it they would have to offer it to us first, and if we don't take it within a certain time limit then they can sell it to somebody else.

Mr. NEHEMKIS. To anybody else—

Mr. STANLEY (interposing). That they want to, within a time limit.

Mr. NEHEMKIS. Within 30 days?

Mr. STANLEY. Is that correct?

Mr. GEORGE A. BROWNELL.¹ Yes.

Mr. STANLEY. And if they don't sell it in that 30 days to somebody else and subsequently want to do it again they have to offer it to us.

Mr. BROWNELL. Sixty days is right.

Mr. NEHEMKIS. Do I understand you correctly that John Jones could under the circumstances that you have just narrated become a stockholder of Morgan Stanley & Co.?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. You are quite sure of that?

Mr. STANLEY. I think so. May I ask counsel if that is correct?

Mr. BROWNELL. Yes.

Senator O'MAHONEY. It would seem, Mr. Nehemkis, from your questions that you might be interested in acquiring some of this stock. [Laughter.]

Mr. NEHEMKIS. After seeing exhibits here showing the profits in the underwriting business I ought to be. [Laughter.]

The CHAIRMAN. This is set forth in the charter.

Mr. STANLEY. It is all set forth in the papers that you have.

The CHAIRMAN. Does counsel recall the particular section of the charter?

Mr. NEHEMKIS. Articles 13 and 14, Mr. Chairman.

The CHAIRMAN. Let's read this into the record.²

¹ Counsel to Mr. Stanley.

² Reading from "Exhibit No. 1760-1," on file with the committee.

13. No holder of either Preferred or Common Stock shall be entitled as of right to purchase or subscribe for any part of any unissued stock of either class or any additional Preferred or Common Stock to be issued by reason of any increase of the authorized capital stock of the Corporation of either class, or bonds, certificates of indebtedness, debentures or other securities convertible into stock of the Corporation, but any such unissued stock or such additional authorized issue of new stock or of other securities convertible into stock may be issued and disposed of pursuant to resolution of the Board of Directors to such persons, firms, corporations or associations and upon such terms as may be deemed advisable by the Board of Directors in the exercise of their discretion.

14. With the exception of transfers in the case of a deceased stockholder to his executors or administrators and, as to the Preferred stock only, with the further exceptions of transfers (1) to a person who is already an existing stockholder of the corporation and (2) to testamentary trustees, no shares of the Preferred Stock or the Common Stock of the corporation shall be sold, assigned, bequeathed, or otherwise transferred, whether by any holder or owner thereof, or by the executor, administrator, trustee or other representative of any stockholder or by any receiver, trustee in bankruptcy or any representative of the creditors of any stockholder, or by the grantee or assignee of any such shares sold on execution, or otherwise, unless the same first shall have been offered for sale to the corporation, or, if the corporation shall so elect, to a nominee or nominees of the corporation, as hereinafter provided.

Whenever any such holder, owner, executor, administrator, trustee, receiver, bankruptcy trustee, grantee, assignee or representative shall desire to sell or dispose of shares of Preferred Stock or Common Stock of the corporation, such holder, owner, executor, administrator, trustee, receiver, bankruptcy trustee, grantee, assignee or representative shall first notify the Board of Directors, and shall offer to sell said Preferred or Common Stock to the corporation or to its nominee or nominees at a price per share not exceeding the value thereof determined as follows:

(a) In the case of the Preferred Stock said value shall be determined by computing the amount which each share of Preferred Stock would have received, after payment of all liabilities, of the corporation, if dissolution of the corporation had taken place at the end of the month last preceding the date of receipt by the corporation of the aforesaid offer.

(b) In the case of the Common Stock said value shall be determined by computing the amount which each share of Common Stock would have received, after payment of all liabilities of the corporation and of all amounts payable to the holders of Preferred Stock on dissolution, if dissolution of the corporation had taken place at the end of the month last preceding the date of receipt by the corporation of the aforesaid offer.

(c) In case any dividends shall have been declared by the corporation on such stock, payable to stockholders of record of a date subsequent to the end of the month last preceding the date of receipt by the corporation of the aforesaid offer, but prior to the transfer by such holder, owner, executor, administrator, trustee, receiver, bankruptcy trustee, grantee, assignee or representative to the corporation or to its nominee or nominees of the stock covered by such offer, the amount of such dividends per share shall be deducted in determining the value per share as above provided.

In computing the value of the Preferred Stock or of the Common Stock for the foregoing purposes the value of the assets and the amount of liabilities of the corporation shall be as determined by the Board of Directors, except that no allowance shall be made for good will or any other such intangible asset, and the determination of the Board of Directors shall be final; provided, however, that if the offerer of the stock so desires and so specifies in his offer, such value shall be determined by the independent accountants who last audited the books of the corporation, and in such case the determination of said accountants shall be final. If an offerer elects to have such value determined by said accountants, he shall pay the fees and charges of the accountants for such service.

The aforesaid offer and notice shall be in writing addressed to the corporation at its principal office in the Borough of Manhattan, City of New York. Nothing herein contained shall be deemed to prevent an offerer from offering to sell his stock for less than the value thereof as above determined. If an offerer shall have specified a price in excess of the value of his stock, determined as above provided, the price at which the corporation, or its

nominee or nominees, shall have the right to buy the stock shall be automatically reduced to the value as so determined by the Board of Directors or the independent accountants, as the case may be.

If any such offer be accepted by the corporation for itself, or on behalf of its nominee or nominees, it shall be the duty of any such holder, owner, executor, administrator, trustee, receiver, bankruptcy trustee, grantee, assignee or representative to transfer said stock to the corporation, or to its nominee or nominees, upon payment of the purchase price (i. e., the offering price or the value as above determined, whichever is less), and no dividends or interest shall be paid or allowed on such stock after failure to comply with any request by the corporation to make such transfer.

If within thirty (30) days after the delivery of any offer of sale as aforesaid, the corporation shall not accept for itself, or on behalf of its nominee or nominees, such stock or any part thereof, the offerer shall be at liberty, within sixty (60) days after the expiration of such thirty (30) days, to sell and transfer such shares of stock as are not bought by the corporation, or by its nominee or nominees, to any person at any price not less than the price at which the corporation had the right to purchase such shares (i. e., the offering price or the value as above determined, whichever is less). If, however, such shares of stock shall not have been so sold or disposed of, and the certificates therefor presented to the corporation for transfer within such sixty (60) days, such shares must again be offered to the corporation as hereinabove provided, before the same or any part thereof can thereafter be sold, assigned, bequeathed or otherwise transferred.

From and after the sale, assignment, bequest or transfer of any stock made in violation of the foregoing provisions, and until after the notice and offer as heretofore provided shall have been given and the time of the corporation to exercise said option shall have expired, the corporation shall have, and it is hereby expressly given, the right and option to purchase all or any part of such stock at a price equal to the value thereof determined as above provided. No transfer of any stock made in violation of the foregoing provisions shall be valid or effective or be recorded on the stock books of the corporation.

Whenever the corporation shall exercise any of the rights and options hereinabove given, either for itself or on behalf of its nominee or nominees, in accordance with the terms thereof, and shall deposit or cause to be deposited with any bank or trust company in the City of New York for the account of the holder of record of said stock, his legal representatives and assigns, the purchase price determined as hereinabove provided of any stock which it has so elected to purchase for itself or on behalf of its nominee or nominees, and shall give notice in writing to such holder of record, sent by registered mail to his address as the same appears on the stock books of the corporation, of the place and amount of such deposit, and that such deposit will be payable to him upon surrender of the certificates for such stock, duly endorsed and stamped for transfer, then and thereupon all rights of the owner and holder of such stock, his legal representatives and assigns, in law and in equity as a stockholder of the corporation shall cease and such stock shall be and become the property of the corporation or of its nominee or nominees, as the case may be, and the certificate or certificates representing such stock so purchased, shall be deemed to be, and shall be cancelled and of no effect, and the custodian of the stock books of the corporation shall note such cancellation in the stock books of the corporation.

Any notice hereinabove provided to be given by the corporation shall be sufficient if given to the holder of record of any stock at his address appearing on the stock books of the corporation, and shall bind the legal representatives or assigns of such holder of record.

The Board of Directors shall have power to sell and dispose of the shares which may be transferred as aforesaid to the corporation whenever, in their judgment, it can be done with advantage to the corporation.

Those are the two sections.

Mr. NEHEMKIS. Shall I proceed, sir?

The CHAIRMAN. You may proceed.

Mr. NEHEMKIS. Mr. Stanley, I show you two sheets containing data on issues underwritten or participated in by your firm during the period September 16, 1935, to June 30, 1939, and the second sheet containing information with respect to counsel for underwriters, ad-

vertising agencies, engineering, appraisal firms, accounting firms. Will you examine these sheets and tell me whether you caused them to be prepared in response to my request?

Mr. STANLEY. We did, sir.

Mr. NEHEMKIS. The documents identified by the witness are offered in evidence, Mr. Chairman.

The CHAIRMAN. They may be received.

(The documents referred to were marked "Exhibits Nos. 1762 and 1763, respectively, and are included in the appendix facing p. 12291.)

ANALYSIS OF BUSINESS DONE BY MORGAN STANLEY & CO. INCORPORATED

Mr. NEHEMKIS. Mr. Stanley, was not Morgan Stanley & Co.'s first offering on September 21, 1935? Was not that an issue of Consumers Power Co.?

Mr. STANLEY. It was. We were joint managers with Messrs. Bonbright.

Mr. NEHEMKIS. I was going to come to that. This offering appeared how many days after the organization of Morgan Stanley & Co. Incorporated?

Mr. STANLEY. The date you mentioned is the date of the prospectus. The offering was September 23, and I have testified that Morgan Stanley & Co. was organized on September 6.

Mr. NEHEMKIS. So that your answer is now, how many days after the organization of Morgan Stanley was this issue of Consumers Power offered?

Mr. STANLEY. Seventeen days.

Mr. NEHEMKIS. And I believe you have already indicated that you were co-managers of this offering with Bonbright & Co.?

Mr. STANLEY. We were.

Mr. NEHEMKIS. Now, if my memory serves me correctly, a previous witness, Mr. Gordon, has testified¹ concerning some of the difficulties that arise when you have a joint-managership account. Would you indicate briefly to the committee how it happened that you had a co-managership of this account with Bonbright & Co.?

Mr. STANLEY. Well, I should like to say first that I think your reference to Mr. Gordon's testimony, which I heard in part, at least, was not quite on the subject. His testimony—his reference was to having one manager in one part of the country and another manager in another part of the country.

Mr. NEHEMKIS. Certain difficulties arising from joint managership, but since you and the Bonbright firm were both in New York, that difficulty or that kind of difficulty would not ensue?

Mr. STANLEY. No.

Mr. NEHEMKIS. Then will you answer my question, if stated to you in this fashion: How did it happen that you were joint managers with Bonbright & Co.?

Mr. STANLEY. We so acted because Mr. Wendell Willkie requested us to.

Mr. NEHEMKIS. Mr. Wendell Willkie?

Mr. STANLEY. Yes.

¹ Supra, p. 11946.

Mr. NEHEMKIS. Now, is Mr. Wendell Willkie a partner of the investment banking house of Bonbright & Co., Mr. Stanley?

Mr. STANLEY. Mr. Wendell Willkie is chairman of the Commonwealth & Southern Corporation and chairman of the Consumers Power Co.

Mr. NEHEMKIS. And Mr. Wendell Willkie requested you to make Bonbright your joint manager of the account?

Mr. STANLEY. Yes; he requested us to be joint manager of the account with Bonbright.

Mr. NEHEMKIS. What was the amount of the offering, Mr. Stanley?

Mr. STANLEY. \$19,172,000.

Mr. NEHEMKIS. And how much was your participation?

Mr. STANLEY. Our participation in the underwriting group was \$5,711,000.

Mr. NEHEMKIS. Now, keep your eyes on the same line and go to the last column and tell me how much your gross profit was.¹

Mr. STANLEY. Our gross profit before deductions of expenses, which were set forth in the heading, was \$60,575.66.

Mr. NEHEMKIS. In the first 4 months of your existence, during the period September 16 through December 31, 1935, did not Morgan Stanley & Co. Incorporated participate in underwriting amounting to \$195,835,000?

Mr. STANLEY. We participated in issues amounting to that. Our underwriting was fifty-five-million-odd dollars.

Mr. NEHEMKIS. Now, having in mind the two figures we have before us, what was the amount of the gross spread on these issues?

Mr. STANLEY. You mean dollars?

Mr. NEHEMKIS. Yes; in dollars.

Mr. STANLEY. \$4,186,527.

Mr. NEHEMKIS. Now, after deducting your share of the syndicate expenses, what was your gross profit? I am aware that your terminology is different from the one which I am using, which I take to be the accepted one. You refer to gross receipts or losses, but I think we understand each other.

Mr. STANLEY. Gross receipts. I think your question was our share of gross profits after—

Mr. NEHEMKIS (interposing). —deduction of syndicate expenses; correct.

Mr. STANLEY. Which are the expenses of the syndicate as such?

Mr. NEHEMKIS. Right.

Mr. STANLEY. None of our own expenses or overhead taxes, and so forth.

Mr. NEHEMKIS. Right. What is the figure?

Mr. STANLEY. The figure is \$933,245.79.

Mr. NEHEMKIS. Right.

Senator KING. Out of that you paid taxes and your office expenses?

Mr. STANLEY. Yes, sir; overhead, rent.

Mr. NEHEMKIS. Now, was not your profit on these issues about 22 percent of the gross spread? You don't have the figures there; Mr. Young had better make some calculations. Put down \$933,246 over \$4,186,528, and tell me if that isn't 22 percent of the gross spread; approximately 22 percent, Mr. Young?

¹ "Exhibit No. 1762."

Mr. YOUNG. Yes; that is correct.

Mr. NEHEMKIS. Now, was not this profit a little less than half received from management fees, Mr. Stanley?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. Now, during the 4-year period September 16, 1935, to June 30, 1939, did not Morgan Stanley & Co. manage or co-manage issues amounting to \$2,534,968,530?

Mr. STANLEY. From September 16, 1935, to June 30, 1939?

Mr. NEHEMKIS. Correct, sir.

Mr. STANLEY. We managed or co-managed issues amounting to \$2,534—

Mr. NEHEMKIS (interposing). You accept my figure?

Mr. STANLEY. Yes. I wasn't sure whether I had the right place.

Senator KING. Was there a guaranty—were these underwritten?

Mr. STANLEY. Yes, sir; these were all underwritten by various firms, including ours.

Senator KING. That meant a guaranty of the amount for which you had underwritten?

Mr. STANLEY. Not of the entire amount, sir. All of the Telephone issues were guaranteed and certain other issues, but not the entire figure just stated.

Mr. NEHEMKIS. Did not, during the same period that we are discussing, Morgan Stanley participate in issues managed by others, amounting to \$629,901,200?

Mr. STANLEY. They did.

Mr. NEHEMKIS. And again, during the same period under discussion, did not Morgan Stanley manage or participate in issues amounting to \$3,164,000,000?

Mr. STANLEY. That is the correct figure—the face amount of bonds—the amount of our own underwriting—

Mr. NEHEMKIS (interposing). I will come to that. Morgan Stanley participated in issues or co-managed—the Morgan Stanley participation in issues managed or co-managed by it was \$522,991,050?

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. Now, that is something over 20 percent, isn't it?

Mr. STANLEY. About.

Mr. NEHEMKIS. Approximately?

Mr. STANLEY. Yes, approximately.

Mr. NEHEMKIS. Do you want to check the figures, Mr. Young, or do you accept them?

Mr. YOUNG. No.

Mr. NEHEMKIS. Morgan Stanley's participations in issues managed by others was \$66,525,000, or something over approximately 10 percent?

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. So that Morgan Stanley's participation in issues managed by itself was twice as large as in issues managed by others?

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. Now, do you have before you the total spread on the issues managed by Morgan Stanley during this period under discussion?

Mr. STANLEY. I have. The figure is \$50,450,210.

Mr. NEHEMKIS. Now, of this amount, Mr. Stanley, did not Morgan Stanley transfer to its gross profit account, referred to in your table as receipts and losses, \$12,227,613, or about 24 percent?

Mr. STANLEY. Well, the figure that you mentioned is in this last column of gross receipts.

Mr. NEHEMKIS. Is your answer "Yes" or "No"?

Mr. STANLEY. Well, you said transferred to our gross—

Mr. NEHEMKIS (interposing). Profit account, referred to in your table as receipts and losses.

Mr. STANLEY. Now, you are speaking about bookkeeping now and after all, presumably—

Mr. NEHEMKIS (interposing). Well, where—

Mr. STANLEY. There is no bookkeeping—

Mr. NEHEMKIS (interposing). Well, "transfer" need not be taken that literally. What is your answer to my statement? I want the record to show your answer. What appears in that column? What is the figure, \$12,227,613?

Mr. STANLEY. Correct.

Mr. NEHEMKIS. Then your answer should be "Yes," should it not, sir?

Mr. STANLEY. I don't know; I mean, you are talking about transferring to a gross profit account. There is no such account.

Mr. NEHEMKIS. All right.

Senator KING. Make such explanation as you care to.

Mr. STANLEY. Well, there is no doubt, Senator, that the figure he mentioned in the column, the last column of the table, which we prepared at his request, is there, but I thought he was referring to our books of record.

Mr. NEHEMKIS. No; I think you were taking me too literally.

Mr. STANLEY. I'm sorry.

Mr. NEHEMKIS. Now, can you tell me what the total spread was on the issues which were managed by other houses?

Mr. STANLEY. May I have that read?

(The question was read.)

Mr. STANLEY. The spread in the issues managed by other firms in which we participated was \$12,621,294.

Mr. NEHEMKIS. That's correct. Now, of that amount, it appears in the gross-profit account, does it not, \$462,315 or about $3\frac{3}{4}$ percent of the spread?

Mr. STANLEY. It appears in that column; yes.

Mr. NEHEMKIS. Thank you, Mr. Stanley.

Now, of the 73 issues managed by Morgan Stanley, am I correct in understanding that not one issue showed a loss?

Mr. STANLEY. No.

Mr. NEHEMKIS. That is to say, loss to Morgan Stanley & Co. Incorporated.

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. In fact, it only shows—the only loss shown from the Morgan Stanley participations is the 1936 Shell Union issue, which was managed by some other house; is that correct?

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. And your loss on that participation was \$32,000, roughly?

Mr. STANLEY. It was.

Mr. NEHEMKIS. So that this was the only issue out of the 90 managed or participated in by Morgan Stanley during these 4 years that showed a loss?

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. Now, is this correct, Mr. Stanley, that the gross profit to Morgan Stanley on the issues managed or co-managed by it was slightly less than half a point?

Mr. STANLEY. That is correct.

Mr. NEHEMKIS. What is your answer, Mr. Stanley?

Mr. STANLEY. That is correct. I have answered.

Mr. NEHEMKIS. Now, was not the gross profit that Morgan Stanley, on issues managed by others, made, \$462,315, or about one-fifteenth of 1 percent, on the gross spread, of course?

Mr. STANLEY. I can't follow you.

Mr. NEHEMKIS. Accept it subject to correction.

Mr. STANLEY. I will be glad to.

Mr. NEHEMKIS. Now, was not the total spread on the issues managed by others \$12,621,000, roughly speaking?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. Is it correct that only two firms ever served as co-managers with Morgan Stanley?

Mr. STANLEY. I don't think—

Mr. NEHEMKIS (interposing). Perhaps I can help you if I give you this question: Have any other firms, other than Bonbright & Co. and Kuhn, Loeb & Co., ever served as joint managers with you?

Mr. STANLEY. I think not.

Mr. NEHEMKIS. What is your answer; "Yes" or "No"?

Senator KING. He said, "I think not."

Mr. NEHEMKIS. I wasn't sure. You think not?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. Now, Bonbright & Co., prior to the organization of your firm, was always associated with utility business, was it not?

Mr. STANLEY. Well, it had done a very large—

Senator KING (interposing). Do you mean exclusively associated?

Mr. NEHEMKIS. I wouldn't—

Senator KING (interposing). Or others?

Mr. NEHEMKIS. I wouldn't say exclusively, but my understanding is that it was a house that was famous for its utility business.

Did I get your answer, sir? [to Mr. Stanley]

Mr. STANLEY. There are several Bonbright firms that had existed over a period of years. Those firms had been identified largely with utility financing, but it had done other business, particularly some of the firms.

Mr. NEHEMKIS. Now, the—

Senator KING (interposing). Pardon me, but there were several firms by the name of Bonbright?

Mr. STANLEY. Yes, sir. Not more than one at one time, but over a period of time there were several distinct firms.

Senator KING. Under the same management or same ownership?

Mr. STANLEY. Different management, Senator.

Mr. NEHEMKIS. I believe you said, Mr. Stanley, that the other co-manager with you was the house of Kuhn, Loeb. Has not Kuhn, Loeb & Co. been particularly associated with railroad issues.

Mr. STANLEY. Well, they have done a great deal of railroad financing. They have done a great deal of other kinds of business over a long period, too.

Mr. NEHEMKIS. You feel you can't answer my question in the form in which it was put to you?

MR. STANLEY. I can't answer it precisely. I can express the opinion that they probably have done more railroad business—still, I don't know how much.

MR. NEHEMKIS. I think that is fairly helpful. Was not Morgan Stanley's total gross profits from security flotations, during this entire period that we have been discussing, \$12,689,928?

MR. STANLEY. That is correct—subject, of course, to all the deductions that I have mentioned several times.

MR. NEHEMKIS. Right. Did not \$7,774,286 or a little over 60 per cent come from management fees?

MR. STANLEY. Management compensation, yes. We pay ourselves part of that.

Senator KING. You what?

MR. STANLEY. We pay ourselves part of that. I don't know if that is clear, Senator.

Senator KING. No; it is not.

MR. STANLEY. Well, the management compensation is paid by all of the underwriters to the management. There might be 10 underwriters and each of the 10 pay something to the management. When we are one of the 10, as we always are, we pay ourselves that portion, you see.

Senator KING. Oh, you take it out of one pocket and put it in the other?

MR. STANLEY. That's right. When we have taken the underwriting, or 20 percent of the underwriting, we pay ourselves 20 percent of the total, as managers.

MR. NEHEMKIS. Will Mr. George Whitney please take the stand, and will you remain, Mr. Stanley?

Senator KING. May I ask one question before he does?

Generally speaking, Mr. Stanley, what would be the expenditures that would be paid out of the gross returns or gross profits?

MR. STANLEY. The expenditures that any firm would have?

Senator KING. Yes; I am speaking of taxes or whatever they were.

MR. STANLEY. Yes. Well, first, of course, there is the return on capital, that being the most important thing in the underwriting business, which, if idle for a long time—or we may be busy at other periods. The business has peaks and valleys, you know. You do a lot of business or you don't do business for a long time. We did a lot of business in the first 2 years of our existence, and the last year we haven't done very much. As I said to Mr. Nehemkis, if we had been the owner of our preferred stock this past year, we wouldn't have received full dividends, because we didn't earn it.

Senator KING. Well, that is to say, you have to keep available a large amount of capital which brings no returns whatever?

MR. STANLEY. Right. We have to keep a staff of people who are available, if we want to maintain this existing form of investment machinery for the need of the market, so that they are available to perform certain expert services to a borrower, and they are competent, experienced men. They have to be kept and paid whether we are busy or whether we are not. Of course, we have that overhead; we have rent, we have taxes, all the things that any business has to pay in the way of expenses.

Senator KING. Have you ever made any computation as to the amount which might be considered as a profit after meeting all of

these obligations to which you have referred, taking into account the idle capital which for some periods would not be used and which, of course, calls for some compensation, and what would be the ultimate amount which would be regarded as a profit?

Mr. STANLEY. Well, you can't—I don't think you can in this business decide what would be an average return on capital over a period of time. The business is very "spotty." An awful lot depends on where you say "Yes" or "No" as to going into certain issues. For example, during this period there were certain issues that were brought out on the market that didn't turn out very well, and the underwriters had substantial losses. If we had said "Yes" to the invitation to become an underwriter in those issues, we might not have had any money at all, or, rather, we might not have had profits anything like these that Mr. Nehemkis has brought forth, the gross profits. We didn't go into those issues, as it happened.

Senator KING. Well, were there many corporations or investment bankers or companies in the field during the period covered by the inquiries of counsel?

Mr. STANLEY. I should say "Yes."

Senator KING. Was the field open to every investment company to bid for or enter into negotiations with corporations that were seeking capital?

Mr. STANLEY. The field was entirely open to anyone if the corporation wanted to do business with them.

Senator KING. There was no coercion upon your part to compel them—corporations seeking money—to deal with you?

Mr. STANLEY. No, sir; none at all, Senator.

Senator KING. I suppose the fact that you made a pretty good record, as evidenced by Mr. Nehemkis' questions, would bring to Morgan Stanley and those with whom they were associated considerable prestige, and people would have confidence in them and go to them when they had large flotations to make?

Mr. STANLEY. Well, all of us, Senator, I might say, have been in the business of investments for quite some time and knew a great many people in the business and in the big corporations. We had a certain, or we were supposed to have a certain knowledge of the business over that period.

TESTIMONY OF GEORGE WHITNEY, J. P. MORGAN & CO., NEW YORK, N. Y.—Resumed

ENUMERATION OF FORMER ACCOUNTS OF J. P. MORGAN & CO. UNDERWRITTEN BY MORGAN STANLEY & CO. INCORPORATED—ACCOUNTS NOT UNDERWRITTEN

Mr. NEHEMKIS. Mr. Whitney, will you glance at the sheet spread out on the table there, indicating the originations and participations of the firm of Morgan Stanley, and run through that list and read off, if you will, the companies on that list which were formerly accounts of J. P. Morgan & Co.?

Mr. WHITNEY. I don't know anything about that.

Mr. NEHEMKIS. Do as I ask, if you will, Mr. Whitney. You are a banker and you have testified that you had 25 years' experience in the banking business. That should be simple for a banker.

Mr. WHITNEY. I think I can try to do that, Mr. Chairman. I am not sure that I can remember, but I will do my best. This is a sort of an unrehearsed—do you want me to read them all?

Mr. NEHEMKIS. Sure. You go down the list and tell me every one of those accounts which was formerly an account of J. P. Morgan.¹

Mr. WHITNEY. All right.

Consumers Power Co., no; Dayton Power & Light Co., no; Illinois Bell Telephone Co., yes; Ohio Edison Co., no; New York and Queens Electric Light & Power Co., no; Southwestern Bell Telephone Co., yes; New York Edison Co., no; Central Illinois Light, no; Consumers Power Co., no; Louisville & Nashville Railroad, yes; New York Central Railroad, yes, twice; Consolidated Edison Co., no; Pacific Telephone & Telegraph, yes; Chesapeake & Ohio Railway, yes; Cincinnati Union Terminal Co., yes; Chicago & Western Indiana, yes; Brooklyn Edison Co., yes—I mean, no, on that. What was your question, whether we did bond issues or—

Mr. NEHEMKIS. Whether they were an account of yours.

Mr. WHITNEY. What do you mean by that, may I ask?

Mr. NEHEMKIS. Whether you did any form of financing, bonds, notes, stocks.

Mr. WHITNEY. Crane Co., no; Niagara Falls Power Co., yes; Louisville & Nashville Railroad Co., yes; Chesapeake & Ohio Railway, yes; Indianapolis Water Co., I wouldn't know; New York Edison Co., no; Chesapeake & Ohio Railway, yes; General Motors Acceptance, twice yes; Cincinnati Gas & Electric Co., no; American Telephone & Telegraph, yes; Central Hudson Gas & Electric, yes; Argentine Republic, yes; American Telephone & Telegraph again, yes; Consumers Power Co., no; Pacific Telephone and Telegraph, yes; Ohio Edison Co., no.

Great Northern Railway, I guess yes; Government of the Dominion of Canada, yes—that's twice.

Mr. NEHEMKIS. Just keep to the corporate issues—well, go ahead, since you are doing it, you might as well do it all.

Mr. WHITNEY. You interrupted my train of thought.

Mr. NEHEMKIS. I'm sorry!

Mr. WHITNEY. Argentine Republic, yes; Johns-Manville Corporation, yes; Philadelphia Electric, yes; Argentine Republic, yes; Southern Bell Telephone & Telegraph, yes; Crane Co., no; Phelps Dodge, no; Cincinnati Gas & Electric, no; Standard Brands, no; New York Telephone, yes; Niagara Electric, twice, yes; duPont, yes; Westchester Lighting, no; Ohio Edison, no; Central New York Power, no.

Consolidated Edison, no; Consumers Power, no; Duluth, Missabe and Iron Range Railway, yes; Consolidated Edison of New York, no; U. S. Steel, yes; Mountain States Telephone and Telegraph, no; Standard Oil of New Jersey twice, yes; Southwestern Bell Telephone, yes; Public Service Electric and Gas, yes; New York Steam Corp., no; Argentine Republic again, yes; Dominion of Canada, yes; Continental Oil, no—well, a predecessor company, a very different company we had then.

Mr. NEHEMKIS. That's right.

Mr. WHITNEY. Railway Express, yes; Consumers Power, no; Eastman Kodak, no; Inland Steel, no. That wasn't their business anyway.

¹ "Exhibit No. 1762."

Mr. NEHEMKIS. That was a participation.

Mr. WHITNEY. Oh, excuse me!

Mr. NEHEMKIS. I want to get the record straight.

Now, Mr. Whitney, I want to thank you. That was a very refreshing experience, because I think you have been overmodest about your memory heretofore.

Mr. WHITNEY. Thank you!

Mr. NEHEMKIS. Now, Mr. Whitney, all railroad issues that you have enumerated on that sheet were former J. P. Morgan accounts? All Telephone issues were——

Mr. WHITNEY (interposing). Excuse me, sir, what was that?

Mr. NEHEMKIS. I said all railroad issues that you enumerated—suppose we make it a little more systematic. I am going to show you this table of industrial and railroad issues managed or co-managed by Morgan Stanley during the period under discussion, and ask you to look at them and tell me if there is any railroad issue on this list that was not one that you enumerated a moment ago.¹

Mr. WHITNEY. That is correct, except——

Mr. NEHEMKIS (interposing). Just hold it for a moment!

Mr. WHITNEY. May I answer your question?

Mr. NEHEMKIS. Certainly.

Mr. WHITNEY. That is correct, except the Great Northern Railway was at First National Bank.

Mr. NEHEMKIS. But part of the old trio, that is——

Mr. WHITNEY (interposing). No, no; it wasn't, not a bit! Excuse me!

Mr. NEHEMKIS. All right. Now, hold that for just a moment. You see a number of industrial accounts there. All of those accounts were formerly managed by J. P. Morgan & Co. except——

Mr. WHITNEY (interposing). You mean bond issues?

Mr. NEHEMKIS. Bond issues—except—now, you pick out the ones that were not managed by J. P. Morgan & Co.

Mr. WHITNEY. Well, Crane, it is down here twice; Phelps Dodge is here, and Eastman Kodak. Now, let me start again: Crane——

Mr. NEHEMKIS (interposing). Excuse me, but just to get the record plain on this, these are industrial issues underwritten by Morgan Stanley which were not formerly accounts of J. P. Morgan & Co. Proceed.

Mr. WHITNEY. Crane Co., the Phelps Dodge Co., the Eastman Kodak Co., and I think Standard Brands.

Mr. NEHEMKIS. One other, Shell Union Oil.

Mr. WHITNEY. Who?

Mr. NEHEMKIS. Oh, I'm sorry, that is not on your list. But that is one other account that you people didn't have.

Mr. WHITNEY. I wouldn't know—one other. I didn't hear what you said to start with.

Mr. NEHEMKIS. I said Shell Union Oil was not formerly an account of J. P. Morgan & Co.

Mr. WHITNEY. Oh, no! And Continental Oil, of course, is so changed in its present situation, it is really not proper to say——

¹ See "Exhibit No. 1764-2," appendix, p. 12295.

Mr. NEHEMKIS (interposing). With reference to Standard Brands, is it not a fact, Mr. Whitney, that your firm organized and was instrumental in setting up Standard Brands?

Mr. WHITNEY. We had something to do with it, but we weren't either of the two functions you suggested.

Mr. NEHEMKIS. Now, Mr. Chairman, may it please the committee, I would like to offer in evidence at this time these two tables from which we have been working, the source of the data having been furnished to us by Morgan Stanley & Co., Incorporated, in both instances.

The CHAIRMAN. They may be received.

(The tables referred to were marked "Exhibits Nos. 1764-1 and 1764-2," respectively, and are included in the appendix on pp. 12293 and 12295.)

Mr. NEHEMKIS. Mr. Whitney, do you recall any company for which J. P. Morgan & Co. was formerly principal banker, which has floated securities through some house other than Morgan Stanley & Co., Incorporated?

Mr. WHITNEY. I couldn't possibly answer that question. I never thought of it before.

Mr. NEHEMKIS. Will you do some thinking about it and send me a memorandum on it?

Mr. WHITNEY. You mean check up every industrial company financed during the last few years?

Mr. NEHEMKIS. Somebody in your organization. We would like the committee to have the benefit of your advice on it.¹

Mr. Stanley, do you recall any company for which J. P. Morgan & Co. was formerly principal banker which has floated securities through some other house than Morgan Stanley & Co., Incorporated?

Mr. STANLEY. I would like to be able to think about it, because I might miss some. I recall some at the moment; perhaps I can think of more later. Those I recall are the Connecticut Light & Power Co., a subsidiary of the United Gas Improvement Co., which sold securities by Putnam & Co., of Hartford; Cincinnati Union Terminal Co., which sold some bonds through Lehman Brothers; the C. & O. Railroad which sold securities through Halsey, Stuart, and Otis & Co.; the Terminal Railroad of St. Louis, who sold securities through a syndicate headed by Halsey, Stuart & Co.

Mr. NEHEMKIS. Mr. Stanley, do I follow you correctly that the three you have mentioned thus far, Terminal Railroad, C. & O., Cincinnati Union Terminal and Connecticut Light & Power—

Mr. STANLEY (interposing). That is four. I would like to have the opportunity to think further about it. There may be many others, I don't know.

Mr. NEHEMKIS. If you will and at your leisure send us a memorandum, we will be very grateful.²

Mr. STANLEY. I will be very glad to.

Mr. NEHEMKIS. Now, Mr. Stanley, will you glance at the sheet³ I am about to show you, the original of which is in evidence, and

¹ Mr. Whitney, under date of January 26, 1940, submitted the information requested. It is included in the appendix on p. 12321.

² See letters from Mr. E. H. York, Jr., Feb. 15, 1940; Peter R. Nehemkis, Jr., Esq., March 4, 1940; Mr. Harold Stanley, March 12, 1940, in the appendix, pp. 12321-12324.

³ "Exhibit No. 1764-1."

go over this very quickly and tell me which of these utility issues you recognize as having been managed or co-managed by Morgan Stanley. Just tell me first which of those you recognize as having been managed or co-managed by Morgan Stanley.

Mr. STANLEY. This entire list purports to be a list of certain utility issues managed or co-managed by Morgan Stanley & Co., and I have no doubt it is correct. Some of these companies, of course, sold—I think in all cases of these groups here the sales were in quite substantial amounts of securities direct by private placement to institutions.

Mr. NEHEMKIS. Substantially you accept the table?

Mr. STANLEY. It seems to be correct. It is subject to check.

UTILITY UNDERWRITINGS BY MORGAN STANLEY & CO. INCORPORATED, WHICH
WERE NOT UNDERWRITTEN BY J. P. MORGAN & CO.

Mr. NEHEMKIS. All of this is subject to check.

Will you pass it to Mr. Whitney? Mr. Whitney, will you run over that list¹ and tell me which of those utility accounts were formerly accounts of J. P. Morgan & Co.? Take them by groups, the first one being the Consolidated Edison Co. of New York. Were any of that group formerly Morgan accounts?

Mr. WHITNEY. No.

Mr. NEHEMKIS. Take the next group, Commonwealth & Southern Corporation, any of that group of companies J. P. Morgan accounts?

Mr. WHITNEY. No.

Mr. NEHEMKIS. Turn to the next, Niagara Hudson Power Corporation, were any of those J. P. Morgan accounts?

Mr. WHITNEY. Some of them in part, I mean, in other words, we had done isolated business for some of these; yes. Some we hadn't; Central New York we hadn't.

Mr. NEHEMKIS. Will you indicate the ones for which you believe that some isolated financing had been done, subject, of course, to check?

Mr. WHITNEY. I would want to check them because I don't like guessing on something I haven't checked up, but we did once, many, many years ago, the Niagara Falls Power, and I have an idea it related to another. Central Hudson I think we did in Drexel. I wouldn't know. Buffalo Niagara we did some, and other people, if I recollect, did some, the Central New York Power, so that I think we may have done isolated transactions for Central New York Power.

Mr. NEHEMKIS. Will you turn to the next section, Columbia Gas & Electric Corporation?

Mr. WHITNEY. No.

Mr. NEHEMKIS. United Gas Improvement Co.

Mr. WHITNEY. Through our Philadelphia office; yes, sir.

Mr. NEHEMKIS. Public Service Corporation of New Jersey.

Mr. WHITNEY. Well, back in the 1890's or something like 1900 I guess it was, we did a piece of business for them in J. P. Morgan & Co. and since then Drexel has.

¹ "Exhibit No. 1764-1."

Mr. NEHEMKIS. And the last, Indianapolis Water Co.?

Mr. WHITNEY. Mr. Hall tells me that Drexel did.

Mr. NEHEMKIS. The answer is that Drexel handled the last three pieces?

Mr. HALL. Which three pieces?

Mr. NEHEMKIS. Look at the chart¹ and refer to United Gas Improvement Co., Public Service Corporation of New Jersey, and Indianapolis Water Co.—did Drexel handle all those three accounts?

Mr. HALL. They did.

Mr. NEHEMKIS. Mr. Whitney, to return to a former answer of yours, you said U. G. I. and Public Service Corporation of New Jersey appear in the J. P. Morgan scheme of things rather remotely in the past. Don't they appear latterly somewhat more contemporaneously than perhaps you intimated?

Mr. WHITNEY. J. P. Morgan & Co.?

Mr. NEHEMKIS. Yes.

Mr. WHITNEY. No, sir; we have never done any broad transaction; I don't think, in New York. In the New York part of our show I don't think we have ever done anything for U. G. I., and I say we did once 40 years ago for Public Service.

Wait a minute, I apologize because I always think in terms of the New York end. Mr. Hall reminds me that some of these Commonwealth & Southern Corporation issues, subheaded that way, Drexel did do business with. He had better identify it because I wouldn't know.

Mr. NEHEMKIS. I think Mr. Hall had better be sworn.

Mr. WHITNEY. I wouldn't know of my own knowledge at all. I have forgotten.

Mr. NEHEMKIS (to Mr. Hall). Suppose you take the sheet.² And will you be good enough to swear this person?

The CHAIRMAN. Do you solemnly swear the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. HALL. I do.

TESTIMONY OF PERRY E. HALL, VICE PRESIDENT, MORGAN STANLEY & CO., INCORPORATED, NEW YORK, N. Y.

Mr. HALL. There is only one, and that would be the Ohio Edison under Commonwealth & Southern.

Mr. NEHEMKIS. And you previously indicated, and Mr. Whitney accepted your statement, that U. G. I., Public Service of New Jersey and Indianapolis Water Co. had been formerly financed by Drexel?

Mr. HALL. That is correct.

Mr. NEHEMKIS. Mr. Whitney, do you recall when the United Corporation was organized?

Mr. WHITNEY. United Corporation—1929.

Mr. NEHEMKIS. Was not the United Corporation organized by J. P. Morgan & Co. and Bonbright & Co.?

Mr. WHITNEY. It was.

¹ "Exhibit No. 1764-1."

Mr. NEHEMKIS. Mr. Whitney, I show you a letter which purports to be on the stationery of J. P. Morgan & Co., addressed to Lansing P. Reed, Esq. Will you look at it and tell me if you recognize this as being your stationery and the kind of file paper that normally appears in your shop?

Mr. WHITNEY. Yes.

Mr. NEHEMKIS. This is a letter, may it please the committee, from Mr. Thomas S. Lamont, to Mr. Lansing P. Reed. Can you tell me who Mr. Lansing P. Reed is or was?

Mr. WHITNEY. He was a member of the firm of Davis, Polk, Wardwell, Gardiner & Reed, who are our counsel.

Mr. NEHEMKIS. I read to you this letter [reading from "Exhibit No. 1765"]:

At Harold Stanley's suggestion—

I presume he referred to you, sir?

Senator KING. What is the date of that?

Mr. NEHEMKIS. January 2, 1929 [reading]:

At Harold Stanley's suggestion, I am enclosing a batch of advertising circulars regarding various investment trusts. He—

Referring again, I presume, to you, Mr. Stanley—

suggested that I call to your particular attention the Utility Equities Corporation and especially the first paragraph thereof which I have marked. In this connection the names of two other investment trusts occurred to me, the purposes of which are in a way similar to the one proposed—

Bear this in mind, if you will, Mr. Chairman—

in that they make little if any pretense of diversification, and their purpose is obviously to insure continued control by the bankers (Lee, Higginson & Co.), and their clients. These are the Swedish American Investment Corporation and the Solvay American Investment Corporation. In the circular advertising the sale of their fixed obligations to the public, no mention is made of diversification.

Now, I am offering this at this time because of this significant fact. This document was filed under United Corporation, and when I paused in my reading, the reference was to United Corporation.

I offer it, sir.

The CHAIRMAN. It may be received.

(The letter referred to was marked "Exhibit No. 1765" and is included in the appendix on p. 12296.)

Mr. NEHEMKIS. Mr. Whitney, were you not once a director of the United Corporation?

Mr. WHITNEY. Yes, sir.

Mr. NEHEMKIS. Would you be able to identify for me the report to the stockholders for the year ending 1934, and while you were not a director in 1938, I ask you to tell me if the report I show you for the year 1938 looks familiar to you, and is the report.

Mr. WHITNEY. Well, I can certainly identify the '34 one. I suppose it is fair to believe that that is the report that was issued in 1938.

Mr. NEHEMKIS. Before relinquishing these, since I don't have occasion to refer to them later, I would like to read into the record from the consolidated balance sheet sent to the stockholders in the year 1938, the investments of the United Corporation in a number of corporations which we shall have occasion to deal with later, and

which we have in fact already discussed with you [reading from "Exhibit No. 1766-2"]:

Companies	Shares held	Percent of total voting stock outstanding
Columbia Gas & Electric Corporation, common stock.....	2,424,356	19.6
Niagara Hudson Power Corporation, common stock.....	2,351,007	23.4
Public Service Corporation of New Jersey, common stock.....	988,271	13.9
The United Gas Improvement Co., common stock.....	6,066,223	26.1
The Commonwealth & Southern Corporation, common stock.....	1,798,270	5.1
Consolidated Edison Co. of New York, Inc., common stock.....	203,900	1.5

May I at this time, sir, offer these documents in evidence, as identified by the witness?

The CHAIRMAN. Do you want them printed in the record?

Mr. NEHEMKIS. I think it is rather important, sir, that they should be printed.

Perhaps we can file them; we can always get access to them.

The CHAIRMAN. That will be better.

Mr. NEHEMKIS. I think I have given the vital information.

The CHAIRMAN. They may be accepted and filed.

(The documents referred to were marked "Exhibits Nos. 1766-1 and 1766-2" and are on file with the committee.)

Mr. NEHEMKIS. Mr. Stanley, is it a pure coincidence that Morgan Stanley should do all the underwriting for companies whose stocks have been the principal investment of United Corporation?

Mr. STANLEY. Well, I don't know what you mean by a pure coincidence, but I would say that the reason that we have done business for the companies, for the subsidiaries of the companies you mentioned, is because those companies asked us to.

Mr. NEHEMKIS. Is it a coincidence, Mr. Stanley, that Morgan Stanley has done no underwriting for other utility companies?

Mr. STANLEY. I am not sure that we haven't.

Mr. NEHEMKIS. Check me if you will. If I am in error, I am always very happy to be so told.

Just a moment before you do that; to the best of your knowledge at this moment, subject always to your privilege to check, can you give me an answer to those two questions, yes or no?

Mr. STANLEY. May I have it read, please?

Mr. NEHEMKIS. Read the second question.

(The reporter read the question: "Is it a coincidence, Mr. Stanley, that Morgan Stanley has done no underwriting for other utility companies?")

Mr. NEHEMKIS. Give me the answer to that. You have the privilege of checking that later.

Mr. STANLEY. May I have the question again?

(The reporter read the question again.)

Mr. STANLEY. We have done other.

Mr. NEHEMKIS. What is the answer to the question, is it a coincidence or not a coincidence?

Mr. STANLEY. Coincidence to what? I don't get your meaning.

Senator KING. It seems to me that is a dual question. Is it a coincidence—that is a question; and was there any underwriting of other organizations.

Mr. NEHEMKIS. They were two questions, sir, quite.

Senator KING. It seems to me a man would have to be dexterous to know how to answer it.

Mr. NEHEMKIS. I will repeat the first question: Mr. Stanley, is it a pure coincidence that Morgan Stanley should do all of the underwriting for companies whose stocks have been the principal investment of United Corporation? Now may I have your answer?

Mr. STANLEY. I would say it has nothing to do with the ownership of United Corporation by these companies.

Mr. NEHEMKIS. You can't answer that yes or no?

The CHAIRMAN. May I suggest, Mr. Nehemkis, that the question cannot possibly be clear to the witness, because he doesn't know what is in your mind as the alternative to a coincidence.

Mr. NEHEMKIS. May I ask the witness if he will pass that; I have his general answer, and see if he can answer my second question, which I believe was as follows: Mr. Stanley, is it a coincidence that Morgan Stanley has done no underwriting for other utility companies?

Mr. STANLEY. But we have done other underwriting.

Mr. NEHEMKIS. Than in that group formerly mentioned?

Mr. STANLEY. Yes; we have. They are on the group you have, some of them—all of them.

"MORGAN STANLEY & CO., INCORPORATED, HAVE BEEN DOING BUSINESS WITH THE CLIENTS WHICH FORMERLY HAD PATRONIZED J. P. MORGAN & CO."

The CHAIRMAN. Doesn't this all boil down to this state of facts, Mr. Nehemkis, that the Morgan Stanley firm was incorporated after the banking law of 1933 had been passed, divorcing underwriting from banks, and that the Morgan Stanley firm took over the underwriting function of the old firm of J. P. Morgan & Co., and that it was established principally by old stockholders or old partners of J. P. Morgan or Drexel; in other words, that the new investment company was organized by the owners of the J. P. Morgan partnership for the purpose of carrying on the business which the banking house could no longer carry on, and that most of the investment underwriting business of J. P. Morgan went on over to Morgan Stanley? Now, that is the situation, is it not, and there is no dispute about that, is there?

Mr. NEHEMKIS. I think the answers are all in the record.

The CHAIRMAN. There is no dispute about that.

Mr. STANLEY. Only this, sir; we didn't take over anything. We formed a company to do business of the type of security business, investment business, that J. P. Morgan & Co. used to do, and I think it might tell the whole story of the formation of Morgan Stanley & Co. if you would permit me to put in the record two very short announcements made at the time of formation, one by Morgan Stanley & Co. and one by J. P. Morgan & Co.

The CHAIRMAN. I think they have already been mentioned, but we will be very glad to have them.

Mr. Stanley:

For release morning newspapers September 6, 1935

ANNOUNCEMENT OF MORGAN STANLEY & CO., INC.

A group of partners and staff members of J. P. Morgan & Co. of New York and Drexel & Co. of Philadelphia, formerly active in the securities business of the firms, have withdrawn and are forming a new organization for the underwriting and wholesaling of investment securities, to be known as Morgan Stanley & Co., Inc., Messrs. Harold Stanley, William Ewing, and Henry S. Morgan, of J. P. Morgan & Co., Messrs. Perry E. Hall and Edward H. York, Jr., of Drexel & Co., and Messrs. John M. Young and A. N. Jones, heretofore managers of the Bond and Statistical Departments of J. P. Morgan & Co., are to be the executive officers of the new corporation. Mr. Stanley will be the President of the new corporation.

The new securities corporation will have a paid-in capital of \$7,500,000, divided into common and preferred stock. The common shares, which have sole voting rights in the election of the directorate, are to be held exclusively by the officers and staff of the corporation. The preferred shares will be held by members of this group and by certain individual partners of J. P. Morgan & Co. The corporation will open its offices for business at No. 2 Wall Street, New York City, on September 16th next.

For release morning newspapers September 6, 1935

STATEMENT OF J. P. MORGAN & CO.

We have to announce with regret the resignation of the following members of J. P. Morgan & Co. and of Drexel & Co. who, with other valued members of our staffs, have, under the name of Morgan Stanley & Co. Inc., undertaken to organize and carry on a securities business of the character formerly handled by our firms: Harold Stanley, William Ewing, Henry S. Morgan, Perry E. Hall, Edward H. York, Jr.

The withdrawal of these partners and associates, and their formation of a separate and independent securities company, is, we consider, a logical step following upon our firm's decision a year ago, to carry on our banking business rather than the securities business; thus acting in accordance with the banking and securities provisions of the Banking Act of 1933, recently confirmed by the Banking Act of 1935, just enacted. We believe that the members of the new organization will be able, with the ample experience which they have heretofore had, to serve usefully the investment interest of the community.

The firms of J. P. Morgan & Co. and Drexel & Co. will continue as heretofore to carry on their business as private bankers.

The CHAIRMAN. Now you said in answer to my question that J. P. Morgan & Co. did not transfer this business, or words to that effect? Mr. STANLEY. Right.

The CHAIRMAN. But as a matter of actuality, though there was no legal transfer of this business, the new firm of Morgan Stanley & Co., composed of former partners and associates of J. P. Morgan & Co., did, as a matter of fact, carry on most of the old J. P. Morgan investment-banking business?

Mr. STANLEY. It did, as a matter of fact, if I may say, do a very considerable amount of business with people who had formerly done business with J. P. Morgan & Co. and with people who Mr. Ewing, Mr. Hall, and myself had individually done business with.

The CHAIRMAN. And you were not, of course, confined to that business which had formerly been transacted by J. P. Morgan? You did other business?

Mr. STANLEY. We did.

The CHAIRMAN. And would do other business that would come across the threshold?

Mr. STANLEY. We would be very glad to.

The CHAIRMAN. But it is a fact, nevertheless, that the great majority of the old business and the old clients followed the Morgan partners into the new firm.

Mr. STANLEY. A great many of the old clients of J. P. Morgan & Co. did business with us after we were formed, yes, sir; people we had known for years.

The CHAIRMAN. Would it be proper to say most of them did?

Mr. STANLEY. Yes; I think so.

The CHAIRMAN. In other words, with very few exceptions, the new firm of Morgan Stanley & Co. have been doing the business with the clients which formerly had patronized J. P. Morgan & Co.

I say just as a plain matter of fact; it has no implications of any kind to my mind at all. It is just a plain matter of fact. That is what happened.

Mr. STANLEY. Quite right, sir; excepting with very few exceptions I am not quite sure of the figures. I think there was quite a substantial amount of business done with people who had never done business with J. P. Morgan & Co. before.

The CHAIRMAN. And it would be a simple matter for you and Mr. Nehemkis to get together and outline what business has been taken over, what percentage—I shouldn't use the words "taken over," what business is now carried on by Morgan Stanley that formerly had been carried on by J. P. Morgan. Is that the situation as you understand it? [to Mr. Nehemkis].

Mr. NEHEMKIS. No, sir. Mr. Whitney has identified the three industrial accounts that were new accounts not handled by his firm; Mr. Stanley has given testimony that the only old accounts that his firm did not handle were four accounts, three of which his firm lost through competitive bidding; Mr. Whitney has testified that all of the utility business that Morgan Stanley has done today was with companies in which United Corporation, which had been organized by Mr. Whitney's firm, had heavy investments in; and Mr. Stanley, if I understand correctly, is a little bit confused by my second question that had the word "coincidence" in it, but which simply means that I find no record of new financing of utility business by Morgan Stanley & Co. other than accounts that belonged to the United Corporation group.

Mr. STANLEY. I testified that United had nothing to do with it.

Mr. WHITNEY. Mr. Chairman, may I make a comment then? I didn't testify to that. I testified as to the first part of what Mr. Nehemkis stated but I never had an opportunity, I never was asked the question about confining this to United Corporation. Mr. Stanley's statement and your statement, rather, is absolutely correct of any understanding of what has happened. United Corporation I can say unequivocally hasn't been a factor in this in any possible, conceivable way.

The CHAIRMAN. I don't see much difference between what Mr. Nehemkis has said and what the chairman said, nor what the witness said. I don't see any dispute here.

Mr. NEHEMKIS. I think they are now all in agreement.

The CHAIRMAN. Then what is it all about?

Senator KING. Was the Stanley company that you aided in organizing required, compelled, legally or morally, to take over any clients that formerly had patronized J. P. Morgan & Co.?

Mr. STANLEY. No, sir.

Senator KING. You had the right to select clients as and when and where you pleased?

Mr. STANLEY. Absolutely, sir.

Senator KING. And to take over any or all of the former clients of J. P. Morgan & Co. if they came to you?

Mr. STANLEY. If they were willing to do business with us.

Senator KING. And you went out, as I understood the testimony, and did obtain other clients in addition to those who had been the clients of J. P. Morgan & Co.?

Mr. STANLEY. We did.

Senator KING. You were an independent corporation?

Mr. STANLEY. Absolutely, sir.

Senator KING. No strings upon you, so you were not compelled to take only J. P. Morgan clients but you could take clients from any source you pleased?

Mr. STANLEY. Absolutely.

Senator KING. And have done so?

Mr. STANLEY. We have.

The CHAIRMAN. Of course, there is perfectly clear from all of the testimony throughout this hearing a fact which we all knew before, that J. P. Morgan & Co. were probably the leading bankers in the United States, if not the world, and that most of the strong corporations in the United States at some time or another passed through its portals. J. P. Morgan & Co. did a lot of the financing business. Now that the Banking Act has separated two functions that were formerly merged, Morgan Stanley in the investment field has succeeded to a similar dominant position that J. P. Morgan formerly held.

Mr. STANLEY. Senator, I am very glad to say that some of the former clients have been willing to select us to be their bankers in the investment field.

Senator KING. I see no impropriety in that.

Mr. STANLEY. I don't, sir. I am proud of it.

The CHAIRMAN. It isn't a question of impropriety so far as the question takes note. It is a question of the actual concentration of the bulk of this business. Now, that carries no implication of wrongdoing or violation of the law, or anything of that kind, but it is a physical fact that is of tremendous importance in the economic history of the United States.

Mr. STANLEY. Lots of good business we don't get, Senator, that we would like to have.

The CHAIRMAN. You are not satisfied with the large proportion that you now have?

Mr. STANLEY. Well, I would like to do more.

The CHAIRMAN. It was ever thus.

Mr. STANLEY. We haven't had much since July, Senator. We are running in the red.

Mr. NEHEMKIS. Mr. Chairman, may I proceed?

The CHAIRMAN. It is now 12:30.

Mr. NEHEMKIS. I don't know what to do. I promised some of our witnesses that we would get them back to their families before Christmas. I am kind of worried.

The CHAIRMAN. One reason I interrupted was in the hope that it might clarify the matter and make it unnecessary to go into so much detail. I really don't think there is any dispute about this.

Mr. NEHEMKIS. You have done it magnificently and I am not going to cross-examine. If I may have the committee's indulgence for 15 minutes more, then I think we can come to a good stopping point.

Mr. Whitney, I want to read to you testimony of your senior partner, Mr. Thomas Lamont, given in connection with the hearings before the Wheeler Railroad Committee.¹ I think you recall them, don't you?

Mr. WHITNEY. Yes, sir.

PROPORTIONS IN WHICH PREFERRED STOCK OF MORGAN STANLEY & CO.,
INCORPORATED, IS HELD BY PARTNERS OF J. P. MORGAN & CO.

Mr. NEHEMKIS. Will you follow me as I read?

This is Mr. Lamont [reading]:

We have no interest in the profits of Morgan Stanley & Co.

QUESTION. You get dividends upon preferred stock, do you not?

Answer.—

By Mr. Lamont, who always is the answerer here.

We get interest on our preferred stock.

QUESTION. You get dividends upon the preferred stock, do you not?

Mr. LAMONT. Those are limited dividends, simply a return on capital.

QUESTION. If they make any profits—

Referring to Morgan Stanley—

you get a profit out of the business, do you not?

Mr. LAMONT. No, we do not get a profit out of it.

QUESTION. Through dividends?

Mr. LAMONT. I do not call that a profit out of the business, I call that interest on capital.

QUESTION. It comes from earnings, does it not?

Mr. LAMONT. It derives of course from the profit of the earnings of the business.

QUESTION. It comes from interest upon the earnings?

Mr. LAMONT. Certainly.

QUESTION. The other way, you had it as a partner, and now you have it from interest.

Mr. LAMONT. Oh, by no means now. The way you put the question, Senator, would indicate that we had an interest in the profits of Morgan Stanley & Co., whereas we do not. We get interest on capital. The dividend on the preferred stock is limited to a certain amount, and we have no interest in the equity.

At this moment Mr. Whitney interposed.

Mr. WHITNEY. The preferred stock is owned by individuals, not by the firm.

Mr. Whitney, in what proportions is it owned?

Mr. WHITNEY. You mean the total amount?

Mr. NEHEMKIS. In what proportions is the preferred stock owned by individuals?

Senator KING. Of what?

Mr. NEHEMKIS. Morgan Stanley, sir.

¹ See "Investigation of Railroads, Holding Companies and Affiliated Companies" pursuant to S. Res. 71 (74th Congress), Part 6, pp. 2026-7.

Mr. WHITNEY. Mr. Chairman, I agree that this matter has been summed up by you completely. The answer to that question is this, that when these gentlemen we have been talking about this morning decided to split off from us completely into an independent——

Mr. HENDERSON (interposing). May I ask that Mr. Whitney give us an answer in accordance with our custom, and if he has an explanation he may make it.

Mr. WHITNEY. Very well. At the time of the organization there were, I think, 8 partners of the 16 at that time who contributed in varying degrees purely for their own accounts, personal accounts, outside of the firm, the amount of preferred stock that Mr. Nehemkis introduced this morning.

The CHAIRMAN. Did you say 8 out of 16?

Mr. WHITNEY. Eight out of the sixteen partners.

Mr. STANLEY. There were 17 partners at that time.

The CHAIRMAN. Seventeen persons were partners at that time of J. P. Morgan & Co., is that right?

Mr. WHITNEY. Yes.

The CHAIRMAN. And of that 17, 8——

Mr. WHITNEY (interposing). I find it is nine—nine contributed in varying amounts for their own personal accounts.

The CHAIRMAN. Nine of them contributed part of the preferred stock of Morgan Stanley & Co.?

Mr. WHITNEY. Yes, sir; at the time. There are 8 of the living partners out of 14 who have no interest whatever in Morgan Stanley, leaving 6 living partners of J. P. Morgan & Co. who have an interest of about 44 percent of this nonvoting stock.

The CHAIRMAN. Six out of how many?

Mr. WHITNEY. Out of 14. The remaining 8 are obviously—or rather, to put it more accurately, those 6 are obviously the remaining partners who are the more well-to-do older partners. The 8 of the younger partners, who are more directly charged with day-to-day operation of the firm have no interest.

From the inception, Mr. Henderson—perhaps I was putting this back end to, but from the inception this has been completely separated. It is not lumped in any way. It is an individual investment by those individuals. As death and various things come to operate, the preferred stock finds its way into trusts. I, myself, for instance, transferred it to two trusts of which my family are beneficiaries, and I have absolutely no interest in it. In other words, there has never been anything but a totally individual investment in the matter, and nothing to do with J. P. Morgan & Co., from the inception to this day, and as unfortunately death takes its toll, that percentage is going to further decrease.

The CHAIRMAN. Legally the two are separate entities?

Mr. WHITNEY. Absolutely.

The CHAIRMAN. There can be no question, of course, of that. That is the legal status of any corporation. But the fact remains, of course, that those who controlled Morgan Stanley were formerly partners of J. P. Morgan & Co.

Mr. WHITNEY. Yes, sir, who elected, however, to split off entirely from us to form a completely independent organization, and what

Mr. Nehemkis refers to in the testimony before Senator Wheeler back 2 or 3 years ago, is, of course, the fact that the older partners, the more well-to-do partners in 1935, did grubstake these partners and associates, and they got a limited return that has already been testified to.

While the conversation at that time with Senator Wheeler was a question of dividends and interest, it is true that it was a grubstake they put up as an investment to enable the new company to have adequate capital. But in the nature of the thing, from its inception, it was fully acknowledged by the partners who went in that it was going to be their private investment. That was the theory of it. We wanted to comply absolutely in every respect with the law. This money was put up and we were entitled, as capital is, to primary return, and it took the form obviously of preferred stock rather than a note, so that "interest" and "dividends" did not get mixed up in that way. But it was capital, a grubstake given by the old Morgan partners to the other men who elected to go off in the other venture, to enable them to do business.

The CHAIRMAN. And while you say the two are distinctly legal entities, it nevertheless is true, as Mr. Stanley has testified in answer to my question, that the great bulk of the investment banking business of the J. P. Morgan company did find its way to Morgan Stanley.

Mr. WHITNEY. Because, as has been testified, it flows with individuals rather than with the name.

The CHAIRMAN. Of course. J. P. Morgan & Co. has never made any effort to keep business away from Morgan Stanley & Co.

Mr. WHITNEY. Certainly not.

Mr. NEHEMKIS. Mr. Chairman, I regret, and I think you know how deeply I regret to say it, but Mr. Whitney's answer to my question is completely unresponsive.

The CHAIRMAN. He probably was led away from the question by the interruptions. Perhaps you may restate the question.

Mr. WHITNEY. I didn't mean to be. May I have it again?

Mr. HENDERSON. Mr. Nehemkis will state it.

Mr. NEHEMKIS. I read to you from your previous testimony:

Mr. WHITNEY. The preferred stock is owned by individuals, not by the firm.

My question: In what proportion is it owned, Mr. Whitney? You testified a moment ago that there were 8 partners who subscribed originally to preferred stock. Now tell me very simply, did these 8 partners subscribe for preferred stock of Morgan Stanley in the same interest as their capital interest in the firm of J. P. Morgan & Co.?

Mr. WHITNEY. No; certainly not.

Mr. NEHEMKIS. Then tell me how they did it.

Mr. WHITNEY. I am really not meaning to be unresponsive but I don't know what you mean; in proportion to what? To their means, I should say.

Mr. NEHEMKIS. Ah! Mr. Whitney, I think you do see——

The CHAIRMAN (interposing). Now, now——

Mr. NEHEMKIS (interposing). I withdraw that, I apologize.

PARTNERS INTERESTS IN J. P. MORGAN & CO. IN RELATION TO THEIR
PREFERRED STOCK INTERESTS IN MORGAN STANLEY & CO., INCORPORATED

Mr. NEHEMKIS. Did the eight partners of J. P. Morgan & Co., who subscribed for preferred stock in Morgan Stanley & Co., subscribe in the same proportion as their capital interest in the firm of J. P. Morgan & Co.?

Mr. WHITNEY. No.

Mr. NEHEMKIS. In what interest did they subscribe?

Mr. WHITNEY. In accordance with their personal inclinations and means.

Mr. NEHEMKIS. Mr. Chairman, in view of the answer I am constrained to offer you—

Mr. WHITNEY (interposing). Do you still think it is unresponsive, because I am trying to do the best I can. You say in proportion to something. It certainly wasn't in proportion to their interest.

Mr. NEHEMKIS. I think Mr. Whitney is trying to do his best. I tried to frame the question several ways and he doesn't understand, so I think the appropriate thing for me now is to offer you a table which contains the answer and I offer you the answer and if Mr. Whitney desires—

The CHAIRMAN (interposing). By whom prepared?

Mr. NEHEMKIS. It was prepared by the staff of the Investment Banking Section.

The CHAIRMAN. S. E. C.?

Mr. NEHEMKIS. Correct.

The CHAIRMAN. From what records?

Mr. NEHEMKIS. From the income tax reports of J. P. Morgan & Co. I offer it, sir.

Senator KING. Does that show the interest which each of the incorporators of the Morgan Stanley company—would that show the interest each incorporator had in that company?

Mr. NEHEMKIS. That will show, sir, the proportionate interest of the eight partners, I think Mr. Whitney said, who subscribed to stock of Morgan Stanley in relation to their proportionate interest in the capital of J. P. Morgan & Co. The purpose of that table is very relevant, as you will see upon scrutiny.

Mr. WHITNEY. Mr. Chairman, I finally tumbled to what Mr. Nehemkis is getting at, but, of course, a man's individual income taxes are on his own income, and my answer is even more certain than it was before that there was no proportion to our capital, because a man has other funds outside of the firm. If he has income—of course that goes in the income taxes.

The CHAIRMAN. Let me hand you the exhibit¹ which has been tendered by Mr. Nehemkis and ask you to look at that and see whether or not it refreshes your recollection or enables you to answer the question.

Mr. WHITNEY. I couldn't dare do this, because it is put in such a different way. Of course we haven't had access to Revenue Department figures. I would have to check it. If it would serve to expedite this, Mr. Steele and Mr. Lamont and Mr. Morgan were the three—Mr. Steele is now dead—they are the oldest and have

¹ "Exhibit No. 1766-3."

the three largest interests in our firm. You see, our income, our capital contributions to our office, and our percentage of earnings in the profits, if any, and losses, if any, have no relation whatever to capital.

Mr. HENDERSON. Mr. Whitney, in that connection, as I understand it (you will correct me if I am wrong), you have two sets of arrangements so far as payments out of income are concerned. In the first case, the capital contribution receives a stated return in proportion to—

Mr. WHITNEY. (interposing). You are talking about us now?

Mr. HENDERSON. Yes, J. P. Morgan & Co. In proportion to the amount held by the individual partners. Then the balance, if any, is distributed on an entirely different basis? .

Mr. WHITNEY. That is right.

Mr. HENDERSON. It is distributed in accordance with some predetermination by the partners and does not correspond to the capital contribution. That is one of the ways in which the younger members are enabled to share in the results of the business that is created, isn't that correct?

Mr. WHITNEY. Yes, subject to certain immaterial data, I mean differentials, but that is substantially correct. If we have a profit at all, there is a distribution made on quite different arbitrary grounds as between ourselves, one of which of them is obviously his return on capital, the other is division of profits, but no relation of capital among the rest of it. There is another predistribution on still more arbitrary terms but that is a detail.

Mr. HENDERSON. Mr. Stanley, in Morgan Stanley, preferred stock is entitled to a fixed return, is it not?

Mr. STANLEY. It is.

Mr. HENDERSON. And this year you indicated you couldn't get it because you didn't earn it?

Mr. STANLEY. Right.

Mr. HENDERSON. And the balance remaining, if any, is distributed according to basis other than the contribution of capital?

Mr. STANLEY. Well, the balance remaining over—

Mr. HENDERSON (interposing). Will the reporter read back the question I addressed to Mr. Stanley?

(The reporter read back the immediately preceding question of Mr. Henderson.)

Mr. STANLEY. I don't think the contribution of capital is involved, Mr. Henderson. Everyone knows what preferred stock is. A preferred stock has dividends out of earnings and after they get their full amount they are entitled to, the common stock gets dividends.

Mr. HENDERSON. I think that is the answer, except you have made it a usual thing. I asked you about your company.

Mr. STANLEY. In our company what I have said is the case.

Mr. HENDERSON. That is, the balance, if any, is distributed according to the ownership of common stock?

Mr. STANLEY. Quite right, after the distribution of preferred dividends.

Senator KING. If I understood your answer, Mr. Whitney, there are the two categories into which the earnings or the profits of J. P. Morgan & Co. are placed, and the distribution of those profits are

not with respect to the number of partners, but some of them have larger interests than others?

Mr. WHITNEY. In both categories.

Senator KING. In both categories the younger partners perhaps have less capital, perhaps less of the profits than the older ones who have for years been interested in the business and furnished the capital?

Mr. WHITNEY. Or the other way around in many instances; the larger capital people have less interest in the residual profits than the younger ones because we are less active in the business. But it is a perfectly arbitrary thing.

But the point in this connection, if I may say so, was whether any of these presentations of Mr. Nehemkis may tie up mathematically and that I just don't know.

The fact is that when it came to grubstake, as I said before, these gentlemen who were breaking off from our firm, it was done with no relation to anything except their personal inclination and their personal means, and if the record will show that clearly, I don't know how you can make mathematical calculations about anything, but that was the fact.

Senator KING. And the income-tax returns of individuals, partners, and those who are in the Morgan Stanley Co., would not reflect the amount of their interest in the Stanley company?

Mr. WHITNEY. It wouldn't necessarily. It would have nothing to do with it because it was purely a voluntary contribution of individuals.

Mr. HENDERSON. May I ask a question there, Mr. Chairman?

But the record of the capital contribution of each of the partners of J. P. Morgan & Co. would be shown in the return of J. P. Morgan & Co., would it not?

Mr. WHITNEY. Not necessarily, because a man might have very substantial outside assets.

Mr. HENDERSON. No, I think I said the capital contribution to J. P. Morgan & Co. by partners would be shown in the return rendered by J. P. Morgan.

Mr. WHITNEY. For income-tax purposes?

Mr. HENDERSON. Yes.

Mr. WHITNEY. Oh, no. You are getting me out of my depth on income-tax returns, but that isn't shown.

Mr. HENDERSON. I am not trying to trap you, Mr. Whitney, on this thing.

Mr. WHITNEY. The return would be on our income.

Mr. HENDERSON. Just a minute.

(Off the record discussion between Senator O'Mahoney, Mr. Henderson, and Mr. Nehemkis.)

Mr. NEHEMKIS. Mr. Whitney, you had an opportunity to examine somewhat casually the sheet shown you by the chairman, I believe. If the proportions in which the preferred stock is owned by the partners of J. P. Morgan & Co. is the same as their proportionate interest in the capital of the firm, it follows, does it not, Mr. Whitney, that the effect is the same as if the firm of J. P. Morgan & Co. owned the stock of Morgan Stanley & Co. Inc.?

Mr. WHITNEY. Absolutely not.

Mr. NEHEMKIS. I have no further questions.

Mr. WHITNEY. May I explain that, Mr. Chairman, because it seems to me there is an inference in there. We have already testified to Mr. Senator Wheeler we didn't have it as a firm. The facts are exactly as I stated this morning, that certain individuals did it. It is well known that Mr. Steele and Mr. Lamont and Mr. Morgan are the three richest of our partners, probably, and they made the contributions in the largest amounts as a matter of public record, but the inference that Mr. Nehemkis attempts to draw there (because they contributed the largest amounts in both offices, in ours and in Morgan Stanley) is absolutely incorrect because it just isn't so. It was a voluntary contribution by individual people, subject to deaths, as has already happened when Mr. Steele died last summer, in which case stock is already in the hands of his executors and it has been nothing, never has been anything, but an individual investment by the individual partners, at their own election, because they happened to have means to do it.

Mr. HENDERSON. Now, Mr. Chairman, Mr. Whitney's statement was not directed to the supposition which counsel presented. In view of the delay, I suggest the statement presented by counsel, properly identified by those who prepared it, be introduced into the record.

Senator KING. Without further proof of the material, I don't see that it has any proper value.

The CHAIRMAN. Now, of course, it has not been identified by any person on the staff.

Mr. HENDERSON. We can identify it, just as we have identified other documents prepared by the staff. Responding to Senator King, it is my considered opinion that it does have a real bearing on the questions and the supposition addressed to Mr. Whitney by counsel. I ask for its introduction.

Senator KING. If there be no objection, it seems to me, after offering proof as to the amount of capital which any of the partners of J. Pierpont Morgan had in this new concern—

Mr. HENDERSON (interposing). That is exactly what we want to present.

Senator KING. But to identify that with the income-tax return would not prove it, because any of them might have income from various sources, other sources; so it seems to me that the only thing that is necessary for you, if that is material, is to ascertain—let me complete my statement—to ascertain the amount of capital of the Morgan Stanley Co. and by whom subscribed, and if some of the stockholders are members of J. Pierpont Morgan then you are entitled to such inference as that would—

The CHAIRMAN (interposing). May I say that the utmost latitude is allowed in hearings of this kind. We have not pretended at any time to enforce the rules of evidence. Many objections could have been made at any time during the whole proceedings of this committee to testimony—I am not now referring to testimony or evidence offered by the S. E. C., but on the part of everybody who has come before the committee. This committee is sitting, not as a jury would sit, to pass upon a strict legal question, but in an effort to learn the fundamental facts about our economic system.

Now, personally, I have no objection to the admission of this particular instrument. My questions to counsel and to Commissioner Henderson with respect to it, off the record, were all intended

to point out what I deemed to be its legal weakness as a legal offer of evidence.

Now, this exhibit, as Mr. Nehemkis has stated, has been prepared by the staff of the S. E. C. Obviously, that is not binding upon any of the witnesses before the committee because they had no part in it and they know nothing about it. It is prepared by your experts from your examination of income-tax returns. Now, it probably is accurate, but obviously it has no binding effect.

This exhibit contains first a list of names of individuals presumably former members or present members of J. P. Morgan & Co. It contains a column which is labeled [reading from "Exhibit No. 1766-3"]:

Approximate percentage of capital in J. P. Morgan & Co. * * *. As shown by the 1938 partnership income tax returns. 2% was paid to partners who died in that year.

Now, those calculations were worked out by the staff of the S. E. C.—

Mr. NEHEMKIS (interposing). On the basis of the partnership return of the firm.

The CHAIRMAN. Now, the next column shows the [reading further]:

Approximate percentage of Morgan Stanley & Co., Incorporated, preferred stock in comparison with total held by Morgan partners and their assignees, i. e., 70,000 shares less 12,500 held by officers of Morgan Stanley & Co., Inc., as of 8/31/39. 8.8% is held by assignees of partners.

The exhibit shows that Charles W. Steele, deceased, held 36.6 percent, approximately, of the capital of J. P. Morgan, and that he held approximately 34.8 percent of the new firm of Morgan Stanley & Co. Now, there is a diversion immediately. Thomas W. Lamont held 34.2 of the approximate percentage of capital in J. P. Morgan & Co.; and he held 34 percent in Morgan Stanley; J. P. Morgan held 9.1 percent of the first, he holds 5.2 percent of the second; R. C. Lef-fingwell, 6.1 percent in the first, 5.9 in the second; F. D. Bartow, 2.9 percent in the first, 1.7 in the second; J. S. Morgan, 2.2 percent in the first, 4.9 percent in the second; A. M. Anderson, 1.9 in the first, 1.7 in the second; George Whitney, 1.9 in the first, none in the second; H. P. Davison, 1.2 in the first, none in the second; Charles D. Dickey, 0.9 in the first, none in the second; Thomas S. Lamont, 0.6 of 1 percent in the first, none in the second; Edward Hopkinson, Jr., a debit interest in the first and none in the second; Arthur E. Newbold, less than one-tenth of one percent in the first and none in the second.

Mr. WHITNEY. He is not a partner of ours, Mr. Chairman.

The CHAIRMAN. Edward Starr, Jr., less than one-tenth of 1 percent in the first and none in the second.

Senator KING. You say he is not a partner?

Mr. WHITNEY. Neither of those two gentlemen are.

The CHAIRMAN. H. Gates Lloyd, Jr., less than one-tenth of 1 percent in the first, 2.9 in the second, this percentage having been acquired under the will of Horatio G. Lloyd who had subscribed for approximately 4.8 % of the original issue, and at the time received approximately 4.9% of the income of J. P. Morgan & Co.

Now, that is the exhibit.

Mr. HENDERSON. May I suggest, just so the record may be clear, that we did not contend that heading which you read—that heading is not partners.

The CHAIRMAN. Yes; there is no title over the column.

Mr. STANLEY. May I say just one word? I couldn't follow the things you read then but I understood you to say that Mr. Steele and Mr. Lamont had thirty-odd percent of the preferred stock of Morgan Stanley & Co. Yes; the figures you read were, Mr. Steele, 36 percent of it—I suppose it is preferred stock; it says capital. Oh, wait a minute—the preferred stock—may I begin again? Memoranda which you read show Mr. Steele a holder of 34.8 percent of the preferred stock of Morgan Stanley & Co., and Mr. Lamont as a holder of 34 percent of preferred stock of Morgan Stanley & Co., whereas the fact is that at the end of August 1939 Mr. Steele held 28.5 percent of the preferred stock of Morgan Stanley and Mr. Lamont held 27.8 percent of the preferred stock of Morgan Stanley & Co. I know nothing about the figures in J. P. Morgan & Co.

Mr. NEHEMKIS. You will notice, however, that you are reading from different dates, don't you, Mr. Stanley?

Mr. WHITNEY. Mr. Chairman, may I just say this, that we haven't any objection to that going in as long as the record shows that income-tax returns of the individual partners have absolutely no relation to the capital that they may have in the firm except that obviously the fellows with the bigger capital in the firm probably get more interest in it than the fellows who have less.

The CHAIRMAN. Well, of course, I read it into the record. It is in the record.

Senator KING. Mr. Chairman, may I say that the objection which I suggested a few moments ago was not to the introduction of evidence tending to show the interest which any of the partners of the J. Pierpont Morgan firm had in the Morgan Stanley company, but the point that I made was that if you attempted to show the income of the various individuals, that would not reflect anything as to the interest which they might have in J. P. Morgan & Co. or this company, because the income might have been derived from a hundred other different sources.

The CHAIRMAN. This column purports to show the general income.

Senator KING. So I have no objection at all to showing whatever interest of any of the partners of J. P. Morgan have in the Morgan Stanley company.

Mr. NEHEMKIS. Thank you.

Senator KING. And I think that counsel himself would admit that to tie it up to an income would not be any basis in determining the interest they might have in any company.

Mr. WHITNEY. May I say one more word, Mr. Chairman, literally that the calculations are wrong anyway? [Laughter.]

Dr. LUBIN. I don't understand what the basis of the table is, what the table is based upon. The income received by these partners as revealed by their income tax statements, then computed in terms of holdings—or is it a statement based upon returns from J. P. Morgan & Co. and stock of the partners—stockholders of the Morgan Stanley company—in which they specify their holdings of securities in either or both of these companies?

Mr. NEHEMKIS. I'm sorry, I missed the crucial part of the last part of your question, but I would say from the general import that I got from it, if it is the pleasure of the committee, perhaps the orderly way to do this job would be to put the technical man of the staff, who was charged with the responsibility of preparing this, on the stand and have him tell—

The CHAIRMAN (interposing). Excuse me, Mr. Nehemkis, but to answer Mr. Lubin's question, will you please read, as I did, the heading on the first column?

Mr. NEHEMKIS. I think the Senator is correct. If I just give you the headings—the first column which the Chairman read is entitled as follows: "Approximate percentage of capital in J. P. Morgan & Co.," and that is predicated upon the 1938 partnership income tax returns. The second column, Mr. Commissioner, reads as follows: "Approximate percentage"—approximate percentage, that is where Mr. Stanley was confused—"of Morgan Stanley & Co., Incorporated, preferred stock in comparison with total held by Morgan partners and their assignees," with appropriate deductions indicated in a footnote.

Dr. LUBIN. I still don't feel that you have answered my question, namely, do these figures taken from the partnership income-tax returns, figures showing the incomes of the partners, and using those figures as the basis, do you compute their holdings of stock or—

Mr. NEHEMKIS (interposing). No, sir.

Dr. LUBIN. Or did this income tax return reveal the actual holdings?

Mr. NEHEMKIS. The income tax material upon which this is predicated shows—and the figures we use—interest on capital.

The CHAIRMAN. But you computed it from the interest?

Mr. NEHEMKIS. That is correct, sir.

The CHAIRMAN. That is the question which he is asking, the income tax return which you examined did not show the capital stock?

Mr. NEHEMKIS. No, sir.

The CHAIRMAN. It is a computation?

Mr. NEHEMKIS. Correct, sir.

The CHAIRMAN. In other words, it is a conclusion of the person who prepared the table?

Mr. NEHEMKIS. That is correct.

Senator KING. And shows the income which is derived from other sources?

Mr. NEHEMKIS. No, sir.

Senator KING. That was the point that was not clear when I made my first objection. If you attempt to link this with the income which Mr. Morgan or anybody else had in other investments, it would wholly be irrelevant.

Mr. NEHEMKIS. Right. But we don't do that.

Mr. WHITNEY. May I point out, Mr. Chairman, that I didn't get until this minute that those income tax returns were of 1938; what has that got to do with contributions made to the capital stock of Morgan Stanley in 1935?

The CHAIRMAN. Well, now, the witness is arguing; but, of course, there has been an awful lot of argument here.

I think it is perfectly clear now.

(The table referred to was marked "Exhibit No. 1766-3" and is included in the appendix on p. 12296.)

The committee will stand in recess until 2 o'clock, and we hope to finish at that time.

(Thereupon, at 1:01 p. m., the committee recessed until 2 p. m. of the same day.)

AFTERNOON SESSION

The hearing was resumed after recess at 2:25 p. m.

Acting Chairman KING. Proceed.

Mr. NEHEMKIS. Mr. Sidney A. Mitchell, take the witness stand, please.

Acting Chairman KING. Have you been sworn? Do you solemnly swear that the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. MITCHELL. I do.

TESTIMONY OF SIDNEY A. MITCHELL, PRESIDENT, BONBRIGHT & CO., NEW YORK, N. Y.

Mr. NEHEMKIS. Mr. Mitchell, will you state your full name and address, please?

Mr. MITCHELL. Sidney A. Mitchell, Oyster Bay, N. Y.

Mr. NEHEMKIS. Are you associated with the investment banking firm of Bonbright & Co.?

Mr. MITCHELL. I am.

Mr. NEHEMKIS. Are you a partner of that firm?

Mr. MITCHELL. It is a corporation that I am president of.

Mr. NEHEMKIS. President of the corporation. How long have you been president of Bonbright & Co.?

Mr. MITCHELL. The present Bonbright since it was organized in December 1938. I was president of a previous Bonbright from the time it was organized in 1933 until December 1938.

ORGANIZATION OF BONBRIGHT & CO., INC.

Mr. NEHEMKIS. Is it not a fact, Mr. Mitchell, that Bonbright & Co., a predecessor of the present Bonbright, was instrumental with J. P. Morgan & Co. in organizing the United Corporation?

Mr. MITCHELL. It is not a fact, Mr. Nehemkis.

Mr. NEHEMKIS. Do you care to make any additional comment or enlarge upon that?

Mr. MITCHELL. Yes; the Bonbright, which was organized in 1933, had no connection with any previous Bonbright company.

Mr. NEHEMKIS. I merely had in mind Mr. Whitney's testimony this morning, which was a little bit different from what you said, but I accept what you say, sir. Has Bonbright & Co. ever been instrumental in the financing of Niagara Hudson Power Corporation?

Mr. MITCHELL. The Bonbright Co., which existed from '33 to '38 was one of the underwriters of three issues of subsidiaries of the Niagara Hudson Power Co.

Acting Chairman KING. May I ask a question? Did that first corporation, that Bonbright company, did it incorporate in 1938 or was it merged into the present?

Mr. MITCHELL. No; the present Bonbright—may I start in 1933? In 1933 the company which up to that time had been known as Bonbright went out of the investment banking business entirely. A new corporation was organized at that time, entirely separate and distinct, and in no way a successor to the one that went out of the investment banking business in 1933. It is that corporation, Senator, the one that was organized in 1933, which was one of the underwriters of several bond issues of subsidiaries of Niagara Hudson Power.

Acting Chairman KING. But the present company, of which you are the president, was that organized in '33?

Mr. MITCHELL. No; that was organized in 1938, December 1938.

Acting Chairman KING. What became of the corporation in 1933?

Mr. MITCHELL. The corporation that was organized in 1933 was liquidated in 1938.

Mr. NEHEMKIS. While we are on this historical development of the various Bonbright companies, were you associated with the old Bonbright company of 1933?

Mr. MITCHELL. I was the vice president of that company from 1926 until 1933.

Mr. NEHEMKIS. Have you always been associated with the various Bonbright companies?

Mr. MITCHELL. No; Mr. Nehemkis, because there have been some since 1890 sometime. My first connection with any Bonbright company was in 1923.

Mr. NEHEMKIS. 1923. I think I have those dates fixed now. Was there any other banking house associated in the financing of Niagara Hudson Power securities?

Mr. MITCHELL. Do you mean subsequent to 1933?

Mr. NEHEMKIS. Correct.

Mr. MITCHELL. There were a great many.

Mr. NEHEMKIS. Can you tell me whether Schoellkopf, Hutton & Pomeroy were associated in that financing?

Mr. MITCHELL. I remember they were.

Mr. NEHEMKIS. And can you tell me any other house?

Mr. MITCHELL. Morgan Stanley.

Mr. NEHEMKIS. Now, Mr. Mitchell, did you ever have occasion to discuss with any of the officials of Morgan Stanley & Co., Incorporated, the problem of the respective participations in the underwritings of the Niagara Hudson Power Corporation?

Mr. MITCHELL. I did.

Mr. NEHEMKIS. With whom did you have such discussion.

Mr. MITCHELL. I had those discussions when the first issue—

Mr. NEHEMKIS (interposing). I said with whom?

Mr. MITCHELL. With Mr. Stanley and I believe Mr. Hall.

Mr. NEHEMKIS. Mr. Perry Hall?

Mr. MITCHELL. Mr. Perry Hall.

Mr. NEHEMKIS. Can you identify the period of time about when you had these discussions?

Mr. MITCHELL. Very definitely, because they arose when the first public issue was made of any subsidiary of the Niagara Hudson Power Co., subsequent to 1933 when our firm—the Bonbright of 1933—when that firm did business, and when we heard that this financing was about to be done I had a discussion at that time with Morgan Stanley & Co. as to the position which Bonbright & Co. might obtain in that financing.

Mr. NEHEMKIS. Mr. Mitchell, did you not also in connection with this discussion which you have referred to, enter into an informal agreement or understanding with the two officials of Morgan Stanley that you have mentioned a moment ago as to the underwriting of securities of Niagara Hudson system, or as to the proportion of the amount of underwriting that your company would obtain in such underwriting?

Mr. MITCHELL. You are referring, I presume, to testimony I gave in the private hearing of the Niagara Hudson case?

Mr. NEHEMKIS. I am, sir.

INFORMAL UNDERSTANDING RELATIVE TO FUTURE FINANCING OF NIAGARA HUDSON POWER CO. SYSTEM BETWEEN BONBRIGHT & CO. AND MORGAN STANLEY & CO., INCORPORATED

Mr. MITCHELL. As I remember, in the autumn of 1938. In order to have that testimony have the meaning which it should have, it must be considered against the chronological context—if I may put it that way—of events. The first discussions I have said which I had with anyone of Morgan Stanley relating to a subsidiary of the Niagara Hudson Power Co. was, I believe, in the year 1936, and the first issue was discussed, the refunding of some bonds of the Niagara Falls Power Co. My discussion at that time was in connection with the interest which Bonbright might have in that particular issue.

As a result of those discussions Bonbright received a certain interest in that particular issue.

Mr. NEHEMKIS. Do you recall—forgive me for interrupting you—do you recall what the interest was at this time?

Mr. MITCHELL. I think it was around 10 percent, Mr. Nehemkis. I don't remember exactly, but I can get it for you if you want it. That issue was done. We think we did our job successfully as an underwriter in those bonds. The next issue that came along was sometime in 1937. I believe the spring of 1937, but I am not sure, and it was the Buffalo Niagara Electric Service Co., some such name. In that issue we also had an interest which I think was not exactly the same percentage of the total issue, but somewhere nearly the same. When that issue came on we again discussed the matter with Morgan Stanley & Co. We pointed out that in the last issue we had had a certain interest that we had performed in a certain way in the last issue; we hoped our interest in that particular company, which was then under consideration, would be at least as good as it had been in the preceding one. Fortunately it was.

If I may just finish.

Mr. NEHEMKIS. Yes, sir.

Mr. MITCHELL. I just want to give you the background of this particular thing. Then the third issue came along; it was in, I believe, the autumn of 1937, and in that issue—that was the Central

New York Power Co.—in that issue we again discussed with Morgan Stanley what position we might hope to obtain for ourselves, and I believe that our position again was slightly different from what it had been before, but nevertheless in the same general neighborhood.

Acting Chairman KING. Were those separate issues?

Mr. MITCHELL. Three entirely separate issues, Senator.

Acting Chairman KING. Of different corporations?

Mr. MITCHELL. Of different subsidiary companies of the Niagara Hudson Power Co. Now the reason I am saying that, Mr. Nehemkis, is this. Over a period there from '36 to the end of '37 there were three different issues of subsidiaries of this company. It so happened that the discussions about our participation in any one of those issues was apropos of that particular issue. It so happened that in the issue we did a certain job and had a certain interest and did a certain job. As in the second issue, presumably because of our performance in the first, we were given a comparable interest; we did also a fairly good job in that. When the third one came the same thing happened, you see? Now in the autumn of 1938, I believe it was at that time, I think this is a fact, but you know more about this than I do, the Niagara Hudson Power Co. applied to be declared not to be a subsidiary of the United Corporation. We were suddenly told by somebody that the S. E. C. wanted to hold hearings at 120 Broadway and would I appear at such a time. I did.

The question then that was asked me was, "Did you ever have any arrangement with Morgan Stanley or understanding or something with Morgan Stanley regarding your financing of Niagara Hudson Power Co.?" I said at that time, "Based upon the history as it had developed in those three preceding issues done in '36 to the time of this hearing, that we had"—I believe I used the word—"an informal arrangement."

Mr. NEHEMKIS. That is correct.

Mr. MITCHELL. Subsequently that was in your questionings and so on; you kept referring to an agreement or an understanding or something of that sort. We discussed—you asked a lot of questions, and so on, and we discussed this. At the end of the period I think I stated, or Mr. Lesser, I believe, stated—and I have it here, because perhaps it is the best explanation of this thing. Mr. Lesser stated—

Acting Chairman KING (interposing). Who is Mr. Lesser?

Mr. MITCHELL. He is on the staff of the S. E. C., Senator, and conducted this private hearing I am speaking of. Mr. Lesser stated, "Am I correct when I say that your understanding with Morgan Stanley about Bonbright participation in the future business of Niagara Hudson, is it an informal understanding based on hope and expectation and desirability of the continuance of the relationship, rather than any formally legally enforceable contract?"

The answer was, "You are correct."

"It is an understanding, isn't it?" Mr. Lesser said. "It is not only your feeling but it is their feeling."

And my answer to that was, "That is what we hope. If they don't share that feeling there is nothing we can do about it. My understanding with our friends at Morgan Stanley is that if any piece of Niagara's business comes up that they have anything to say about that insofar as they have anything to say, and consider it for the best interests of the business to so state, that they would suggest to the

company that Bonbright and Schoellkopf have substantial interest in the business, which interest would be identical, but there is nothing we could do about it if Morgan Stanley won't do it, and there is nothing Morgan Stanley can do about it if the company won't agree."

Now, that is based on the previous relationships that accrued.

Mr. NEHEMKIS. Thank you very much, Mr. Mitchell, for that very good explanation of your conversations and the results therefrom. Now, may I ask you this question: Is it your impression that what you refer to as "expectation and hope" has materialized insofar as your house is concerned?

Mr. MITCHELL. No; I was extremely disappointed in the arrangement that we made, Mr. Nehemkis.

Mr. NEHEMKIS. Just how were you disappointed?

Mr. MITCHELL. Well, I had hoped very much that we might have a larger interest in this first issue of subsidiaries than we have.

Mr. NEHEMKIS. So that your hope and expectation was shattered only insofar as degree was concerned?

Mr. MITCHELL. Yes; I suppose that is right.

Mr. NEHEMKIS. Now, Mr. Mitchell, I am going to show you a table¹ which shows the relative participations in utility issues managed or co-managed by Morgan Stanley & Co., Incorporated, and it will contain the amount of the participation of your firm—I should say your company, excuse me—and the other company that you spoke of, Schoellkopf, Hutton & Pomeroy, in a number of issues of Niagara Hudson Power Corporation. Would you glance at this for me, please, Mr. Mitchell?

Senator KING. Does that relate to the issue of 1938?

Mr. NEHEMKIS. Yes, sir. Do you see the percentage participations there, Mr. Mitchell?

Mr. MITCHELL. I see you have under Bonbright 50 percent. Fifty percent of what?

Mr. NEHEMKIS. Of what Morgan Stanley received.

Mr. MITCHELL. Oh, is that the percentage?

Mr. NEHEMKIS. Yes. Will you run down the various issues and tell me the amount that your firm received in relation to the amount Morgan Stanley received?

Mr. MITCHELL. Niagara Falls Power Co.—wait a minute. I had better start at the beginning of your list. Central Hudson Gas & Electric Corporation, 4½ percent preferred, 340,400—what is that, dollars or shares?

Mr. NEHEMKIS. Dollars—I think there is a dollar sign there.

Mr. MITCHELL. It must be shares. Morgan Stanley—

Mr. NEHEMKIS (interposing). Just give me the percentage amounts.

Mr. MITCHELL. Morgan Stanley 100 percent, Bonbright nothing. Niagara Falls Power Co. 3½'s of 1966, Morgan Stanley 100 percent, Bonbright & Co., 50 percent. Buffalo Niagara Electric Corporation 3½'s of 1967, Morgan Stanley 100 percent, Bonbright 50.8 percent. Buffalo Niagara Electric Corporation Serial Debentures of '38-52 (that was done at the same time), Morgan Stanley 100 percent, Bonbright 50.8 percent. I think those were underwritten pro rata with the bonds. Central New York Power Corporation, 3¾'s of '62, Mor-

¹ "Exhibit No. 1767-1."

gan Stanley 100 percent, Bonbright 49.5 percent. I don't know anything about these figures; I assume they are correct.

Mr. NEHEMKIS. And you may always have the privilege of correcting them if you so desire. While you have that before you, Mr. Mitchell, will you also give us the percentage participation in relation to the Morgan Stanley amount and Schoellkopf, Hutton & Pomeroy?

Mr. MITCHELL. They are just the same.

Mr. NEHEMKIS. As yours?

Mr. MITCHELL. As ours.

Senator KING. Who is that?

Mr. MITCHELL. Schoellkopf, Hutton & Pomeroy.

Mr. NEHEMKIS. Would it not appear, Mr. Mitchell, that the hope or expectation which you spoke of earlier has been realized?

Mr. MITCHELL. Well, no; because I thought you said that I satisfied you as to the amounts we had in this participation and I told you I wasn't—

Mr. NEHEMKIS (interposing). You thought you should have more?

Mr. MITCHELL. We hoped to receive more.

Senator KING. May I ask a question? I understood that in the first issue you referred to, you got 10 percent, and now you got 45?

Mr. MITCHELL. No, Senator; we had about 10 percent of the total securities issued, underwritten. In Mr. Nehemkis' tabulation is what our percentage is in relation to Morgan Stanley's, the amount of bonds underwritten by Morgan Stanley & Co.

Senator KING. And you got 45 percent?

Mr. MITCHELL. And we had about half as much. We underwrote about half as much as Morgan Stanley underwrote but I believe Morgan Stanley underwrote only about 20 percent of the total issue.

Senator KING. So that Morgan Stanley didn't underwrite the entire amount?

Mr. MITCHELL. No, no, sir; there were a great many underwriters.

Senator KING. And you had the same amount that Morgan Stanley had?

Mr. MITCHELL. That—no, we had approximately one-half.

The CHAIRMAN. That is, Morgan Stanley had 20 percent, you had 10, and that was the total of 30 percent of the entire issue?

Mr. MITCHELL. That is correct, sir.

Mr. NEHEMKIS. So that I find, Mr. Mitchell, that in four issues, the Niagara Power Co. 3½'s, the Buffalo Niagara Electric Corporation 3½'s, the Buffalo Niagara Electric Corporation series of debentures, and the Central New York Power Corporation 3¾'s, Bonbright had substantially half of what Morgan Stanley did, and I also find that exactly the same percentages apply to Schoellkopf, Hutton & Pomeroy. Now, do you happen to know, Mr. Mitchell, whether a similar informal understanding, hope, or expectation exists between Bonbright; Morgan Stanley; Schoellkopf, Hutton & Pomeroy; and the following houses: Brown Harriman; The First Boston; Smith, Barney; E. W. Clark & Co., with reference to Niagara Hudson Power Corporation's financing?

Mr. MITCHELL. Well, Mr. Nehemkis, first, may I say I have no idea of what there is with these other companies, nor do I think it is quite right or correct to say a similar understanding and so on, because what I am trying to make clear to you and that is the only

reason I mention this chronological—development of our interests—is to point out to you that our discussion arose in connection with the Niagara Power Co. That is the first issue we knew anything about. In that issue, we had an amount in relation to Morgan Stanley's, which as I say, is approximately 50 percent. All right; another issue comes along, we want to have at least as good a position as we have had in the previous one, but there was no future—when the interests in the first issue were settled, there was no commitment as to any future issue nor is there today any.

Mr. NEHEMKIS. Yes; I think I understand, Mr. Mitchell.

Mr. MITCHELL. I wanted to make that perfectly clear.

Mr. NEHEMKIS. I think I follow you, quite.

Now, Mr. Chairman, may it please the committee, the reason I asked the witness whether he had any personal knowledge of a similar—you embarrass me, Mr. Mitchell—"hope"; I don't know quite the word to describe it.

Senator KING. "Expectation."

Mr. NEHEMKIS. "Expectation," as between Brown Harriman; First Boston; Smith, Barney; and E. W. Clark, is that I find that in the same issues that we have been discussing with this witness, these houses all always received the same amount; 22.9 percent or 22.8 percent; but it never varies. So I just inquired.

Mr. MITCHELL. Mr. Nehemkis, apropos of that, do you mind if I interject, as it may perhaps help your question?

Mr. NEHEMKIS. Oh, please do so!

Mr. MITCHELL. Commonwealth Edison Co., with which Mr. Stuart is very familiar, has been engaged in quite a large refunding program. I don't know, it amounts to two or three hundred million. It was recently completed. The interest that Bonbright, I believe, had in the first of five or six different individual issues, to carry out this program, was "X," say; the interest that Bonbright had in the second issue was again, "X" percent; the interest that Halsey, Stuart had in the first was so much. Presumably the underwriters in the first issue acquitted themselves to the satisfaction of the company and therefore, when it came to having another issue, they naturally turned to the same underwriters; that is the normal procedure, it seems to me, in any professional relationship, and this is distinctly a professional relationship.

Mr. NEHEMKIS. Quite. Mr. Mitchell, may I ask you one other question? Have you always conferred with Mr. Stanley and Mr. Hall and possibly other officials of Morgan Stanley & Co. each time a new piece of financing of Niagara Hudson Power arose?

Mr. MITCHELL. We have always discussed it with them; yes. Now, whether we have had to go and fight hard to have the same position or not in one issue, as against having to do it in another, I can't say. I don't think so. I think we have discussed the matter each time it came up.

Mr. NEHEMKIS. Yes. Well, as you recall in your mind at this time, do you have any recollection as to whether you had to discuss each time exactly what the percentage participation would be?

Mr. MITCHELL. I don't think so. I am sure, for instance, in Commonwealth Edison, we never did. I think we were merely notified by Halsey, Stuart what it was and they said this is being done just like the last issue, and every interest was about the same.

Senator KING. Did Halsey, Stuart have the entire issue underwritten?

Mr. MITCHELL. Commonwealth Edison, Senator, they managed, yes.

Mr. NEHEMKIS. Well, now, in the Niagara Falls Power $3\frac{1}{2}$'s of '66, do you recall at this time whether you discussed the percentage participation, what it would be, or was it just taken for granted?

Mr. MITCHELL. Oh, very much, because that was the first issue, Mr. Nehemkis, and therefore it was very important for us.

Mr. NEHEMKIS. Now, in the next one, the Buffalo Niagara Electric Corporation $3\frac{1}{2}$'s, was there any discussion about the percentage participation?

Mr. MITCHELL. There may have been. I am not sure about that, although I remember very distinctly in connection with the first piece of business of that holding company subsidiary.

Mr. NEHEMKIS. But you are not clear about the subsequent ones?

Mr. MITCHELL. I am not; no, I don't remember.

Mr. NEHEMKIS. Mr. Chairman, I should like to offer in evidence this table which we have been discussing. The source is based on the registration statements relating to the respective issues on file with the Securities and Exchange Commission.

The CHAIRMAN. It may be received.

(The table referred to was marked "Exhibit No. 1767-1" and is included in the appendix on p. 12297.)

Mr. NEHEMKIS. I have no further questions, sir, unless the committee desires to examine Mr. Mitchell.

The CHAIRMAN. Do the members of the committee desire to address any questions to Mr. Mitchell? If not—

Senator KING. Any issues to which you have referred, did any one company underwrite the entire amount and then confer with others with respect to the allocation of the issue to various investment companies?

Mr. MITCHELL. No, Senator. I believe the—I don't—I assume that the arrangement was that the company picked out someone with whom it wished to deal, as the managing underwriter, so to speak, and after discussion with the company what—I mean after discussion with the underwriter, told the underwriter what other underwriters should be included, and there were 5 or 10 or 15, I don't remember how many there were, and each of them bought the bonds directly from the company itself rather than having one of the underwriters buy them all and sell them to the others.

Senator KING. Was that the plan which is usually adopted, or has been adopted for years, in connection with the disposition of securities?

Mr. MITCHELL. Ever since the Securities Act was passed.

Senator KING. But anterior to that time?

Mr. MITCHELL. No; not before that time because then we were able to have banking groups, and it very frequently happened that one house would buy the entire issue and then would sell it to a banking group, of which it was a member.

Senator KING. Was it the custom then for the companies to select a person, or the banking company, which would be their representative, and underwrite or dispose of the entire issue?

Mr. MITCHELL. Very definitely, Senator.

Senator KING. That has been the custom for many years?

Mr. MITCHELL. Yes, sir.

Senator KING. There was rivalry between the various banking institutions, was there?

Mr. MITCHELL. Most acute, sir.

Senator KING. For the acquisition, if I may use that term, of the various issues?

Mr. MITCHELL. Very much so.

Senator KING. And the company, the investment company, that offered the best terms, was it the custom to have the issuing company select that organization, that investment company as its representative?

Mr. MITCHELL. I don't think it was so much a question of the investment company that offered the best terms. I think it was more a gradual development of a relationship over a period of years. I think I can explain that perhaps by—

Senator KING (interposing). Rather professional, as you used that expression?

CONTINUITY OF BANKER RELATIONSHIP

Mr. MITCHELL. It seems so exactly to me. For instance, under—well, we have done business—the individuals who are now in Bonbright & Company, have done business—have been the people who have negotiated contracts, written prospectuses, studied financial plans and so on, for certain companies over a long period of years. Now, when those companies have some problem, some financial problem, to do, they come and consult those same individuals. That happens all the time.

I was rather astounded this morning, for instance, in this hearing, to see that so much time was being spent in trying to find out whether or not corporations who had done business with J. P. Morgan in the past were doing business today with Morgan Stanley & Co.

Senator, I can think of nothing more natural than that; I mean, if, for instance, I should have to employ a counsel and had employed a certain counsel for 15 years, whose advice on various legal matters we have had and he has always done it satisfactorily and knows the whole background and history, what is more natural than I should go back to him again? Now, if he happens to be a partner in the firm of Davis Polk or something, in the beginning of my relationship, and then subsequently goes out on business for himself, under another name, with no connection with Davis Polk, that doesn't mean he isn't the same man that he was before. He is the same friend of mine who has given me this satisfactory advice. Naturally, I therefore go to him again.

Senator KING. In that sense, then, it is professional, that is a professional relation which ensues, much the same as between a client and his lawyer?

Mr. MITCHELL. Quite right, Senator, and may I add just one more thing to that point, because it is something I think does concern the staff of the Securities and Exchange Commission, and that is this, that it seems to me that the very fundamental principle of the Securities Act tends to emphasize this continuity of relationship. For instance, in your A-2, your registration statement under the Securities Act, responsibility for which we must take as investment

bankers, as well as the company, there are various questions. Among them, for instance, is this: Financial changes and so on since the year 1922. That all has to go in

Then you have one whole section of the Securities Act where it says, "Important developments of the last five years." Well, now, we are all liable for misstatements and the company is liable for misstatements. If the company has had a relationship with a certain banking house, say, or certain individuals, who are now engaged in the investment banking business, since 1922, an intimate relationship with them, when it comes to prepare this statement—and the liability for a mistake in this statement is very great, sir—when it comes to prepare this statement, I should think it would do it with a great deal less worry if it had the assistance in the preparation of that statement of people who had been intimately associated with it since the date to which these questions refer.

So, it seems to me there is, first, a professional character, and always has been, to this business, and it seems to me, second, that under the present way the business is done, the importance of that continuity of relationship is emphasized even more than it was prior to the passage of the Act.

MR. HENDERSON. Mr. Mitchell, have you read all the testimony that has been given at these investment banking hearings?

MR. MITCHELL. I have not, Mr. Henderson.

MR. HENDERSON. Well, I suggest that you do, because it will, I think, serve to cure you of any wonder why we have gone into detail as to continuing relationships. If you will note, as you go through that record, some of the stubborn resistance to the intimation that there was a continuity or a continuing group, you will perhaps realize why the S. E. C. put on the kind of hearing that it did. I suggest that, and strongly recommend it to you.

MR. MITCHELL. Thank you.

MR. NEHEMKIS. Thank you very much, Mr. Mitchell, for having come down here.

MR. Chairman, I ask Mr. Alexander to step forward to help me identify some documents.

TESTIMONY OF HENRY C. ALEXANDER, J. P. MORGAN & CO., NEW YORK, N. Y.—Resumed

MR. NEHEMKIS. Mr. Alexander, will you glance at this batch of material which was prepared by your firm and tell me whether you recognize it to have been so prepared?

MR. ALEXANDER. I do.

MR. NEHEMKIS. What does that material represent? What are the various subject matters referred to in that material?

MR. ALEXANDER. The deposits of various corporations at certain month ends. I think that is over a 5-year period, sir. Also, the amount of loans made by J. P. Morgan & Co. to the various corporations outstanding as of the end of each of the last 5 years. It also covers the securities owned by J. P. Morgan & Co. in these companies as of the end of each of the last 5 years.

MR. NEHEMKIS. Thank you very much, Mr. Alexander.

May the documents identified by the witness be filed with the committee.

The CHAIRMAN. They may be so filed.

Mr. NEHEMKIS. Mr. Alexander—

Mr. HENDERSON (interposing). Just a minute, Mr. Nehemkis.
(Off-the-record discussion.)

Mr. NEHEMKIS. Mr. Chairman, I withdraw my request and I ask leave of the committee that this material be kept in the files of the Securities and Exchange Commission.

The CHAIRMAN. Very well.

(The documents referred to were marked "Exhibit No. 1767-2" and are on file with the Securities and Exchange Commission.)

Mr. NEHEMKIS. Mr. Alexander, I show you a letter addressed to your firm dated March 6, 1939, requesting certain data from your firm, and your reply thereto.¹ Will you examine it and tell me whether or not it is a true and correct copy?

Mr. ALEXANDER. It is.

Mr. NEHEMKIS. I offer it in evidence.

The CHAIRMAN. It may be received.

(The letters referred to were marked "Exhibits Nos. 1768-1 and 1768-2"² and are included in the appendix on p. 12298.)

Mr. NEHEMKIS. Mr. Alexander, I show you a table which your firm has prepared in response to our request, giving the financing by J. P. Morgan & Co. of Consolidated Gas Co. and subsidiary issues, together with the profits of your firm. Will you examine this and tell me whether you caused this sheet to be prepared in response to our request?

Mr. ALEXANDER. I did, Mr. Nehemkis. These are participations by J. P. Morgan & Co. in financing headed by other houses.

Mr. NEHEMKIS. I offer it in evidence, Mr. Chairman.

The CHAIRMAN. Without objection it is so ordered.

(The table referred to was marked "Exhibit No. 1769" and is included in the appendix on p. 12310.)

Mr. NEHEMKIS. I want to offer one other table which relates to the subject matter heretofore discussed. This table, Mr. Chairman, shows the participations of Blyth & Co. in Morgan Stanley issues relating to Consolidated Edison Co. and certain other issues, together with the profits of Blyth & Co. in that financing. The data has been supplied to us by Blyth & Co., and has been identified by Mr. Charles E. Mitchell at the time he appeared before this committee.

The CHAIRMAN. It may be admitted.

(The table referred to was marked "Exhibit No. 1770" and is included in the appendix on p. 12312.)

Mr. NEHEMKIS. Mr. Chairman, Mr. Arthur Dean, who represents Mr. Mitchell's firm, has asked that I correct my statement. I said the "profits" of Blyth & Co. Mr. Dean requests that the record show "gross profits" of Blyth & Co.

I now offer a table showing relative participations in utility issues managed and co-managed by Morgan Stanley & Co., Incorporated, during the period 1935 to 1939, with reference to Consolidated Edison and subsidiary financing. The source of this data, may it please the

¹For additional information pertinent to the above testimony, see letter of October 10, 1939, Irving S. Olds to Peter R. Nehemkis, Jr., appendix, p. 12330, and letter of November 15, 1939, Peter R. Nehemkis, Jr., to Henry C. Alexander and reply of December 7, 1939, thereto, appendix, p. 12327.

²J. P. Morgan & Co., under date of October 26, 1939, submitted a partial revision of "Exhibit No. 1768-2." It is included in the appendix on p. 12325.

committee, is based on registration statements relating to the respective issues on file with the Commission.

The CHAIRMAN. Without objection the table may be admitted.

(The table referred to was marked "Exhibit No. 1771" and is included in the appendix on p. 12314.)

Mr. NEHEMKIS. I now offer in evidence, may it please the committee, a table relating to the financing of Consolidated Edison Co. of N. Y., Inc., and its subsidiaries by Morgan Stanley & Co., Incorporated, for the period September 16, 1935, to June 30, 1939. This is predicated upon data supplied by Morgan Stanley & Co., Incorporated.

(The table referred to was marked "Exhibit No. 1772" and is included in the appendix on p. 12315.)

Mr. NEHEMKIS. Mr. Chairman, I had hoped to have the pleasure of discussing with the committee and with Mr. Leffingwell this afternoon certain data on deposit accounts, and their significance, and so on. The people at J. P. Morgan & Co., have worked very hard to make this material available. Mr. Alexander tells me there has been a force of 17 people working night and day for some time. Unfortunately, the material was made available to us only this morning. While I have no doubt that it is accurate in all respects, I don't feel under the circumstances that I want to ask the committee to discuss it with me when the staff has not had sufficient time to examine it. So with the committee's indulgence, may I ask that we defer that phase of our presentation which we hoped to give you this afternoon until a later time when we shall have analyzed it.

The CHAIRMAN. Very well.

Mr. NEHEMKIS. Will Mr. George Whitney and Mr. Harold Stanley return to the witness stand, please?

TESTIMONY OF GEORGE WHITNEY, J. P. MORGAN & CO., NEW YORK, N. Y.; AND HAROLD STANLEY, PRESIDENT, MORGAN STANLEY & CO. INCORPORATED, NEW YORK, N. Y.—Resumed

QUESTION OF WHETHER PROCEEDS OF ISSUES UNDERWRITTEN BY MORGAN STANLEY & CO. INCORPORATED, WERE PLACED ON DEPOSIT WITH J. P. MORGAN & CO.

Mr. NEHEMKIS. Mr. Stanley, do you know whether or not several companies for which Morgan Stanley & Co. has underwritten securities have placed all or part of the proceeds of their issues on deposit with J. P. Morgan & Co.?

Mr. STANLEY. I don't know as a matter of fact, but I assume some of them have.

Mr. NEHEMKIS. Did you not, Mr. Stanley, have occasion to underwrite an offering in 1938 which for the purposes of the record will be known as corporation No. 1?

Mr. STANLEY. I assume that is the correct date. We underwrote securities of that corporation, but I don't know the date.

Mr. NEHEMKIS. Mr. Whitney, will you look at the sheet which Mr. Alexander has and tell me the amount of the credit entered to corporation No. 1?

Mr. WHITNEY. Credits?

Mr. NEHEMKIS. Yes.

Mr. WHITNEY. You mean from the top of this list?

Mr. NEHEMKIS. Yes.

Mr. WHITNEY. In March '37, \$750,000; September 7, same year, \$750,000; another \$750,000, March '38; a million dollars in August '38; \$500,750 in September; a million dollars in November; and \$21,084,865.78 in December '38.

Mr. NEHEMKIS. It was that last figure that I was interested in. Do you know whether that happens to be the proceeds in part or in whole of the underwriting by Morgan Stanley?

Mr. WHITNEY. Yes; paid to their account.

Mr. NEHEMKIS. Mr. Stanley, did not corporation 2 have occasion to underwrite with you a substantial offering in 1937?

Mr. STANLEY. They did.

Mr. NEHEMKIS. Now, Mr. Whitney, if you will glance at the sheet before you and tell me the amount of the credit entered to corporation No. 2?

Mr. WHITNEY. Well, it was \$17,000,000 June '37.

Mr. NEHEMKIS. Is that the amount of the proceeds in whole or in part of the underwriting that Mr. Stanley referred to?

Mr. WHITNEY. I assume so.

Mr. NEHEMKIS. Could you find out if you are uncertain at this time?

Mr. WHITNEY. This company had an account with us and they credited it, I presume that it is. There may have been some other credits, incidentally.

Mr. NEHEMKIS. Mr. Stanley, in connection with corporation No. 3, did you not have occasion to do a substantial amount of underwriting for corporation No. 3 in 1937?

Mr. STANLEY. We did.

Mr. NEHEMKIS. Mr. Whitney, if you will glance at the corresponding sheets and tell me whether or not the proceeds in whole or in part of that underwriting were credited to the account of corporation No. 3?

Mr. WHITNEY. I find here a credit to that corporation of \$48,750,000; withdrawal, \$44,500,000.

Mr. NEHEMKIS. Mr. Stanley, did you not have occasion (when I say "you," you understand I mean the corporation) to underwrite a substantial amount in 1937 for corporation No. 4?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. Mr. Whitney, will you look at your sheet and tell me the amount of the credit entered to corporation No. 4?

Mr. WHITNEY. There are several large credits.

Mr. NEHEMKIS. The first one.

Mr. WHITNEY. \$9,951,000 in one month. That is a rather active account.

Mr. NEHEMKIS. As far as you know, would that represent in whole or in part the proceeds of that underwriting?

Mr. WHITNEY. I should assume so.

Mr. NEHEMKIS. Mr. Stanley, did your organization have occasion to do some underwriting in 1937 for corporation 5?

Mr. STANLEY. We did.

Mr. NEHEMKIS. Mr. Whitney, will you look at your sheet and tell me whether the amount of the credit entered to corporation No. 5 is the result in whole or part of the proceeds of that underwriting?

Mr. WHITNEY. Which year?

Mr. NEHEMKIS. '37.

Mr. WHITNEY. I find an entry or credit of \$21,700,000; the following month a withdrawal of \$18,000,000.

Mr. NEHEMKIS. Mr. Stanley, did not your firm have occasion to underwrite in 1937 for corporation No. 6?

Mr. STANLEY. Correct.

Mr. NEHEMKIS. Mr. Whitney, will you tell me the amount of the credit to corporation 6?

Mr. WHITNEY. '37 one month a credit of \$21,578,000, but that again is a very active account. I don't know if all of that is the result of that credit.

Mr. NEHEMKIS. I am sorry; I didn't hear your answer.

Mr. WHITNEY. I say I find in one month a credit for that corporation of \$21,578,000, but that is a very active account, and I therefore don't know whether that is the amount of the credit as the result of this operation.

Mr. NEHEMKIS. Will you get that information for me? ¹

Mr. WHITNEY. Yes; but there is \$53,000,000 deposits and \$49,000,000 taken out during the year in that corporation. I don't know what the amount of the—

Mr. STANLEY (interposing). The issue was \$20,000,000.

Mr. WHITNEY. It probably is that plus normal credits.

Mr. NEHEMKIS. Your answer to my question is, "Yes?"

Mr. WHITNEY. I assume that is correct.

Mr. NEHEMKIS. Mr. Stanley, did you have occasion to underwrite for corporation 7 in 1938?

Mr. STANLEY. Yes.

Mr. NEHEMKIS. Mr. Whitney, what is the amount of the credit to corporation 7 resulting in whole or in part from the proceeds of that underwriting?

Mr. WHITNEY. There is nothing in these figures of mine—

Mr. NEHEMKIS (interposing). What is the amount of the credit?

Mr. WHITNEY. The largest single month of credit was \$9,900,000; 31 months.

Mr. NEHEMKIS. Mr. Stanley, without having me ask the question, tell me if that isn't the month in which the underwriting occurred?

Mr. STANLEY. The underwriting occurred in July of that year. The issue was \$81,000,000.

Mr. NEHEMKIS. Mr. Stanley, did you have occasion in 1938 to underwrite for corporation 8?

Mr. STANLEY. Yes; we did.

Mr. NEHEMKIS. Will you give me the corresponding information, Mr. Whitney?

Mr. WHITNEY. Well, there are some very big credits, but I think here is one of \$49,876,000.

Mr. NEHEMKIS. Is that the credit resulting in whole or part from the proceeds of the underwriting?

Mr. STANLEY. I don't know. The size of the issue was much larger than that. The issue was twice the size.

¹Mr. Whitney, under date of January 26, 1940, submitted the information requested. It is included in the appendix on p. 12321.

Mr. WHITNEY. A withdrawal of \$44,000,000.

Mr. NEHEMKIS. Do you know, Mr. Whitney, whether the figure you gave represents in whole or part the proceeds of the underwriting?

Mr. WHITNEY. Certainly not the whole, and while it is a very active account I should think it is very probable it is a portion of it; it is a very active account and in that year there were over \$80,000,000 of credits and \$93,000,000 of withdrawals.

Mr. NEHEMKIS. Mr. Stanley, did Morgan Stanley & Co. do any underwriting in the year 1938 for Corporation 9?

Mr. STANLEY. They did.

Mr. NEHEMKIS. Will you examine your sheets, Mr. Whitney, and tell me the same information that you have been giving me heretofore? What is the credit to the account for Corporation 9?

Mr. WHITNEY. No credit around that time at all.

Mr. NEHEMKIS. Check with Mr. Stanley on that again.

Mr. WHITNEY. I can tell you for '38 the only credit was \$8,000,000.

Mr. NEHEMKIS. I will ask Mr. Stanley to look at his material and find out when the underwriting took place.

Mr. WHITNEY. We have a credit for January of \$8,000,000 and nothing in April.

Mr. NEHEMKIS. As to the credit account of \$8,000,000, does that represent in part the proceeds of the underwriting?

Mr. WHITNEY. I haven't the remotest idea.

Mr. NEHEMKIS. Can you find out?

Mr. WHITNEY. Yes. I will ask the company.

Mr. NEHEMKIS. And you will advise the committee?

Mr. WHITNEY. I will ask the company if they will advise the committee, or if they will authorize me to advise the committee; I will do so.¹

Mr. NEHEMKIS. All right. You don't have that information?

Mr. WHITNEY. I wouldn't know. It is just an ordinary credit.

Mr. NEHEMKIS. That is all. Thank you very much.

Senator KING. I would like to ask if the questions are for the purpose of indicating that the Morgan Stanley company did considerable banking with J. P. Morgan & Co. and obtained credits when they made certain underwritings?

Mr. NEHEMKIS. Not quite, Senator. It simply indicates that a portion of the proceeds of the underwriting done by Morgan Stanley & Co. found their way to J. P. Morgan & Co., the bank, and we merely have been talking about numbers that represent corporations.

Senator KING. I understand, but for the purpose of indicating, as I understand it, that they did their banking with the Morgan company?

Mr. NEHEMKIS. That is right.

Senator KING. And when they would underwrite obligations and incur obligations they would obtain loans or credits from J. Pierpont Morgan and then would repay the credits which they obtained?

The CHAIRMAN. With respect to these certain companies, Morgan Stanley & Co. handled certain underwriting and J. P. Morgan & Co. were bankers.

Mr. NEHEMKIS. That is right.

¹ See footnote on p. 12099.

Mr. STANLEY. May I say that as far as Morgan Stanley is concerned we provided certain companies with a certain amount of funds. They did with those funds what they wanted after they got them.

Mr. WHITNEY. The only comment I would like to make is that these were all accounts we had had deposit relations with for varying lengths of time, sometimes a long time, sometimes not a long time, and we cleared the transactions. Payment by Morgan Stanley was made to them in our books and then it was entirely at their disposition. It was purely a bank clearing transaction.

Mr. STANLEY. Paid by check.

Mr. NEHEMKIS. Paid by check, certainly.

Mr. NEHEMKIS. Mr. Whitney, I'm sorry, I had hoped I was through, but I want to ask one question which might clarify the issue a bit. Can you tell me in general whether or not J. P. Morgan & Co. performs fiscal services of various kinds for corporations who have occasion to underwrite securities through Morgan Stanley & Co., Incorporated?

Mr. WHITNEY. Fiscal? I don't know what you mean.

Mr. NEHEMKIS. Registrarships, coupons—

Mr. WHITNEY (interposing). Oh, certainly, but we do it for a lot of people.

Mr. NEHEMKIS. That is right, but it just happens that you do it for corporations that do their underwriting through Morgan Stanley?

Mr. WHITNEY. I would assume we must.

Mr. NEHEMKIS. And you have supplied us with that information?

Mr. WHITNEY. Yes; among others.

Mr. NEHEMKIS. No further questions.

The CHAIRMAN. Are these gentlemen excused?

Mr. NEHEMKIS. They are.

The CHAIRMAN. Are they excused for Christmas?

Mr. NEHEMKIS. For Christmas.

The CHAIRMAN. Merry Christmas, gentlemen, and thank you so much.

Mr. NEHEMKIS. Mr. Russell Leffingwell, please.

The CHAIRMAN. Do you solemnly swear that the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. LEFFINGWELL. I do.

TESTIMONY OF RUSSELL C. LEFFINGWELL, J. P. MORGAN & CO., NEW YORK, N. Y.

Mr. NEHEMKIS. Mr. Leffingwell, will you state your full name and address for the record, please?

Mr. LEFFINGWELL. Russell C. Leffingwell, Oyster Bay, N. Y.

Mr. NEHEMKIS. And you are a partner of J. P. Morgan & Co.?

Mr. LEFFINGWELL. I am.

Mr. NEHEMKIS. Were you not former Under Secretary of the Treasury Department of the United States?

Mr. LEFFINGWELL. I don't want to be too exact about the words—

Mr. NEHEMKIS (interposing). Assistant Secretary.

Mr. LEFFINGWELL. The office of Under Secretary had not been created. I was Assistant Secretary.

The CHAIRMAN. That was during the administration of Woodrow Wilson?

Mr. LEFFINGWELL. During the administration of Woodrow Wilson and under the three secretaries of the Treasury who served him, Mr. McAdoo, Mr. Glass, and Mr. Houston.

Mr. NEHEMKIS. Mr. Leffingwell, will you tell me in what year you became a partner of J. P. Morgan & Co.?

Mr. LEFFINGWELL. In 1923, July 1. May I just add further identification? I am a New York lawyer, and practiced law from 1902, in general practice, until 1917 when I went to the Treasury, and from 1920 to 1923 when I returned to the practice of law.

Mr. NEHEMKIS. Thank you very much, sir.

Mr. Leffingwell, glancing at the sheet which I have made available to you for your convenience, because I note you have no papers with you, is it not true that as of September 30, 1939, the total assets of J. P. Morgan & Co. were \$640,000,000-odd?

Mr. LEFFINGWELL. It is.

INCREASES IN HOLDINGS OF GOVERNMENT OBLIGATIONS BY J. P. MORGAN & CO. BETWEEN 1934 AND 1939

Mr. NEHEMKIS. A comparison of the first statement published by J. P. Morgan & Co. on December 31, 1934, with that published on September 30, 1939, shows that total assets have increased, that total deposits have increased.

Senator KING. Assets or deposits?

Mr. NEHEMKIS. Well, deposits make up the former; they both have increased. Cash likewise has increased. The holdings in United States Government securities has increased, State and municipal bonds have increased, and loans and advances have not increased; capital has not increased; surplus in partners' balances has not increased. Total capital in surplus has not increased. However, in this period, Mr. Leffingwell, deposits did increase over 60 percent?

Mr. LEFFINGWELL. I accept your figure.

Mr. NEHEMKIS. Subject to your correction, sir. Similarly, Government securities increased over 33 $\frac{1}{3}$ percent, and I note that State and municipal bond holdings increased over 350 percent.

Mr. LEFFINGWELL. I accept it.

Mr. NEHEMKIS. Capital decreased by one-fifth?

Mr. LEFFINGWELL. I accept that.

Mr. NEHEMKIS. The increase in deposits, I take it, permitted the large increase in Government securities, would you say?

Mr. LEFFINGWELL. Excuse me.

Mr. NEHEMKIS. The question was, did the increase in deposits over this period of time permit the large increase in holdings of Government securities?

Mr. LEFFINGWELL. Yes, sir; I should think so.

Senator KING. You utilize your profits for the acquisition of Government securities so you can get some little interest?

Mr. LEFFINGWELL. Of course, it all goes into one total; it is not earmarked, but the increase in deposits is reflected in part.

Mr. NEHEMKIS. Now, most of these Government securities are wholly tax exempt, are they not, sir?

Mr. LEFFINGWELL. Well, I would have to get an analysis of that. I wouldn't be able to say, because, as you know, the Government issues a variety of issues, some of which are wholly tax exempt and some of which are not wholly tax exempt, and I am not at all sure how that stands in relation to the portfolio.

Mr. NEHEMKIS. Would you make it available at some later date, at your convenience?

Mr. LEFFINGWELL. Yes.¹

Senator KING. For my information, is it not a fact that the greater part of the Government securities have been taken up often at the invitation of the Government by various banks throughout the United States, so they can get some little interest upon the deposits, and the greater part of the forty-odd billion dollars of bonds, the greater part of those issues, have been taken up by the banks?

Mr. LEFFINGWELL. I think that is probably true. Of course, during the war, Senator, we made a very great effort to get wide distribution of the Government's obligations through the Liberty Loan organization, and that was, I think, a most important achievement of the U. S. Treasury during that period. Under these conditions, different policies are necessarily followed, and the Government securities tend to be held by the banks.

Senator KING. And insurance companies?

Mr. LEFFINGWELL. And insurance companies and I suppose other great companies.

Senator KING. But most of the——

Mr. LEFFINGWELL (interposing). But I have no statistical information on it. I have no doubt that the Treasury would have——

Mr. NEHEMKIS (interposing). Mr. Leffingwell, I have before me some calculations which appear on the large sheet that has been made available to me, and I observe that the total of Government securities, State and municipal securities, held by J. P. Morgan & Co., for the year 1934, was, roughly, \$257,000,000; that its deposits during the same period were \$338,000,000; and for the year 1935, the total of Government obligations, State and local, were \$342,000,000, as compared with \$473,000,000 of deposits; and for the year——

Mr. LEFFINGWELL (interposing). These figures are not on here, so I am accepting them as you run along.

Mr. NEHEMKIS. I had expected my assistant to give you one so you might follow me. Here is a copy.

Mr. LEFFINGWELL. Thank you.

Mr. NEHEMKIS. I think I was about to come to the year 1936, that is the third one down, Mr. Leffingwell. The total of Government, State, and municipal securities was \$360,000,000 and the deposits for the same year \$479,000,000. In 1937 the total of State and local securities was \$280,000,000, and deposits \$395,000,000. In 1938 I find that the holdings of Government, State, and local securities was \$352,000,000 and the deposits with your firm were \$521,000,000; and as of September 30, 1939, the total of your holdings in Government securities, State and local, were \$386,000,000 and your total deposits, \$590,000,000.

¹ Mr. Leffingwell, under date of February 2, 1940, submitted the information requested. It is included in the appendix on p. 12337.

Mr. Leffingwell, has it not been contended that the great proportion of bank deposits are not being put to use in private industry?

Mr. LEFFINGWELL. I have heard a great deal about that; yes.

Mr. NEHEMKIS. Has there not been an increasing proportion of bank deposits invested in tax-exempt securities?

Mr. LEFFINGWELL. Well, of course, that broad question involves the practice of a great many people and I haven't followed it statistically, but there is a plain tendency in your figures which I accept to an increase in government securities, so far as our bank is concerned. I would have to look this subject up in a broader field, but I wasn't thinking you were going to ask me about that.

Mr. NEHEMKIS. I'm sorry, but my question is sufficiently general.

Mr. LEFFINGWELL. I don't doubt that what you say is so.

Mr. NEHEMKIS. Now, tax exemption makes this kind of investment that we have been speaking of especially attractive to banks, does it not?

Mr. LEFFINGWELL. Well, I should think it made it very attractive to banks. I should think it made it very attractive to private persons.

Mr. NEHEMKIS. In fact, over 80 percent of the earning assets of J. P. Morgan & Co. as of September 30, 1939, were invested in such tax-exempt securities?

Mr. WHITNEY. Oh, no; nothing like that.

Senator KING. Can you give a percentage figure?

PROPOSAL BY MR. LEFFINGWELL TO ABANDON POLICY OF TAX EXEMPTION
ON CERTAIN GOVERNMENT OBLIGATIONS.

Mr. WHITNEY. No; but that is assuming that all our governments are tax exempt and, of course, they are not.

Mr. LEFFINGWELL. You are speaking of a subject that has interested me very much. If I seem to ramble too much, bring me back to earth.

Mr. NEHEMKIS. No, sir; you are doing very well; it is a pleasure.

Mr. LEFFINGWELL. You remind me of what happened to me 22 years ago. Twenty-two years ago I proposed on behalf of Secretary McAdoo the abandonment of the policy of exemption, exempting government securities from taxation, and in the second Liberty bond bill, authority was given by Congress to issue bonds without exemption from supertax. That is a rough statement.

Under Secretary McAdoo's authority—I was very green in the Treasury then; I expounded this question for the Treasury—and I have always been a firm believer in the policy which I understand Secretary Morgenthau advocates, of withdrawing tax exemption from Government securities of future issues. Necessarily, the Treasury never for a moment contemplated the possibility of removing tax exemption from outstanding issues which contain a different sort of obligation. But I have always felt withdrawal of exemption desirable—I have always favored it—for future issues of Government securities.

Now, so far as a bank portfolio is concerned, I say this because I want you to understand that as to the matter of public policy, I have never ceased to advocate, either in public life or in private life, the adoption of a policy of taxing government securities, never.

Senator KING. Now, you know, Mr. Leffingwell, do you not, that that is a subject on which there have been sharp differences of opinion?

Mr. LEFFINGWELL. I do; I do indeed, Senator.

Senator KING. Many believe it is to the advantage of the government itself to issue securities, bonds, of the character which it now issues, that is, bearing interest, because they will be more salable, they will bring a higher price in the market, and in the long run, it's advantageous to the government. Isn't that one view?

Mr. LEFFINGWELL. Absolutely, absolutely. And——

Senator KING (interposing). So you are not the last word?

Mr. LEFFINGWELL. I am not the last word.

Senator KING. You are not the last word in that question.

Mr. LEFFINGWELL. No, but I was afraid I wasn't going to get in my first word, Senator. [Laughter.]

Senator KING. Well, I am not deciding whether the last word or the first word is the better.

Mr. LEFFINGWELL. I don't ask anybody to agree with me, but——

Senator KING (interposing). However, while you are on the subject, Mr. Wilson and his Secretaries of the Treasury, Mr. McAdoo, Mr. Houston, Mr. Glass, did not agree with you?

Mr. LEFFINGWELL. Oh, I beg your pardon! Mr. Wilson, Mr. McAdoo, Mr. Glass, and Mr. Houston all supported that policy.

Senator KING. Well, then they didn't carry it out.

Mr. LEFFINGWELL. That was carried out in the second, third, and fourth Liberty Bond issues.

Senator KING. With respect to surtaxes?

Mr. LEFFINGWELL. With respect to surtaxes. And the only reason why we didn't put it into effect in respect to normal taxes was that we were of the opinion in the Treasury, when we were selling bonds in the denominations of \$50 and \$100 and \$200, that the attempt to collect normal taxes on them would cost more money than it would come to.

Mr. MILLER. May I ask a question of Mr. Leffingwell?

Mr. NEHEMKIS. Certainly, sir.

Mr. MILLER. In making such large investments of bank portfolios in U. S. Government obligations, aside from the high-credit standing of these obligations, would you say that the tax exemption or the tax benefits contained in these various issues was as important as the marketability, the ready marketability, in large amounts? Was that the guiding or the most important thing?

Mr. LEFFINGWELL. Well, frankly, Mr. Miller, I think plainly the problem of the banker is to invest monies deposited with him safely and in such a way that he can meet the demands made upon him by its depositors; in other words, that his first obligation or charge is the care and safety of the money entrusted to him, and that the safest thing he can buy, or could buy, is a short-time obligation of the Government of the United States; and I should say, speaking only for my own opinion, that in answer to your question specifically, a liquid investment of a first quality is a consideration that impels bankers to invest their portfolio in U. S. Government securities.

You promised to stop me if I rambled on to a point where I bored you, Mr. Nehemkis. You know, for 4 days I have sat here and listened to other people talk. [Laughter.]

Mr. NEHEMKIS. It is too much of a privilege, Mr. Leffingwell, to take advantage of your kind offer.

Mr. LEFFINGWELL. I have given a great deal of thought to the question which you asked, Mr. Miller, and which you began, Mr. Nehemkis, asking. About the question of public policy in relation to tax-exempt securities, which is no business of mine as a banker—I just wanted you to know of my philosophy with regard to the subject. I have the greatest deference for the opinion of others who have a different view, and I don't for a minute mean to suggest that I know all about it. But, unquestionably, our object in buying securities or in making loans is to see that the moneys that are deposited with us are safe and liquid. Now, I have an extraordinarily interesting comment on that subject that I found in the Federal Reserve Bulletin as long ago as September 1933. It interested me so much that I thought I might read you just a sentence.

The growth of large-deposit balances to the credit of individuals and financial concerns reflects the accumulation of idle funds, awaiting investment, and also explains, in part, the active demand for securities.

Now, there is just one other thought—one more quotation—and that is taken from the then Assistant Director of the Division of Research and Statistics of the Federal Reserve System, Mr. Lauchlin Currie. He attributed that growth of deposits “to the Government's borrowing and spending program,” and “to the addition to our gold stock,” which has resulted from the flight of money from Europe.

In addition to those two factors which have led to this expansion of deposits, I should add, I think, the devaluation of the dollar which makes gold worth \$35 an ounce instead of \$20.67 an ounce. Obviously, when the gold comes in, more dollars are printed against it than were under the old arrangement.

This expansion of deposits which is reflected in our statement, as you correctly said—well, I have a notion that in the 5 years since we were put out of the investment banking business, our deposits have about doubled. That is not surprising. I don't know how it runs through the country, but there is nothing unusual about it. Bank deposits have increased enormously, and they have increased because of these two factors which Mr. Lauchlin Currie, with authority, mentions, plus the one I mentioned, which is only a footnote to his. But those things are not in the very nature of the case things which lead to the revival of confidence and activity in business if you stop to think about them. We had to go along those lines. I was in complete agreement with the decision of the Government to suspend payment or “go off” gold. I knew of no other solution for the problem than going off gold in 1933. But while there was the basis for deposit inflation in this high price of gold in terms of the dollar, it was in the very nature of the case a thing that did not give confidence. So the very set of circumstances which created deposits, that same thing tended to sterilize them. It was both a necessary thing and a sort of “scaring” thing for business, that we had to go off gold.

Well, similarly, the Government's borrowing and spending program carried with it, of necessity, a sense of apprehension, and in many phases it of necessity involved competition with business; so that the Government's borrowing and spending, which expanded de-

posits, at the same time carried with it this somewhat deflationary or sterilizing antidote. You had stimulus and depressant at the same time operating on the economic system.

Now, those things were two. Third, the incoming gold came over for fear of the war; came over for fear of revolution in Europe; came over because of Hitler and because of Stalin and because of the distressed condition of the world. That gold that came in created deposits. But at the same time the thing that brought it here created fear.

So you have both an inflation of deposits and an inflation of the public debt. The three major factors that operated to bring those about, brought with them a brake, a slow-down. So you have the extraordinary phenomenon of an immense inflation of deposits, immense inflation of public debt, and no inflation at all of prices, and no recovery of business.

Mr. NEHEMKIS. We were speaking earlier, Mr. Leffingwell, of the fact—

Mr. LEFFINGWELL (interposing). Must you stop my speech? If I could have one more sentence or perhaps 2 more minutes.

Mr. NEHEMKIS. I am sorry, sir; I hadn't intended to be rude.

ADVOCACY BY MR. LEFFINGWELL OF POLICY PERMITTING PRICE INCREASE¹

Mr. LEFFINGWELL. Mr. Chairman, am I keeping you too long? You weren't a bit rude, Mr. Nehemkis; you have been very generous. I just wanted to complete that thought. Now, we have on the whole—and this, Mr. Chairman, I know, from what you said in public and from what I have read in the newspapers of the view of the committee, you will reject, but I know you will permit me a hearing. We have had many things pressing toward a higher level of costs for business. We have had a pressure, one with which I sympathize, for better wages, a pressure for better working conditions, absolutely necessary and inescapable pressure for relief and a great burden of taxation, and yet taxation is wholly inadequate to meet the expenditures of the Government.

All these things reflect themselves in the costs of business and, on the other hand, we have had policies of the Government, well thought out, intended to prevent inflation, which are directly and effectively directed toward preventing prices from rising. Now, if business must meet rising costs, and an extraordinarily heavy burden of taxation and pay higher wage rates, and provide much better working conditions, and pay the bills for relief, and at the same time you are going to keep prices down, then I guarantee to you that business will go bankrupt, because business cannot forever pay higher taxes, meet higher costs, and stand the same level of prices.

The CHAIRMAN. What is the conclusion that you say you know that the chairman would reject?

Mr. LEFFINGWELL. The conclusion is that we must accept the view that you must either curtail relief, which you cannot do, and must reduce the tax burden, which you cannot do, or you must consent to permit prices to rise—or else you must admit that the profit system

¹ In this connection see also memorandum subsequently submitted by Mr. Leffingwell and entered in the record as "Exhibit No. 2163," appendix, p. 12338.

is dead, the capital system is dead, and we are going to have a managed economy.

We have had a very much managed economy for 22 years. I was guilty of trying to manage it somewhat when I was in the Treasury. We had a managed deflation in 1937 and '38, intended to prevent inflation, but the effect was drastic deflation.

The CHAIRMAN. Of course, Mr. Leffingwell, some Members of Congress, particularly those who come from agricultural States, have been very anxious to bring about a certain rise in prices because they felt that would be the only way in which the farmer and the rancher could operate at anything like a profit. I think that the criticism of price rises recently has not been directed toward an adequate compensation for products, whatever they may be, but toward an undue manipulation of prices to make them—to raise them out of proportion to what the costs justified.

Mr. LEFFINGWELL. Well, Senator—

The CHAIRMAN (interposing). I didn't want you, Mr. Leffingwell, to place any rejection of any policy in my mouth, because I am not conscious of having rejected anything like that.

Mr. LEFFINGWELL. I am perfectly delighted to hear it; it is music to my ears. I was so fearful that you had espoused the cause of price controls.

The CHAIRMAN. I find a lot of people around the country, and particularly in some of the financial journals, have assumed my conclusions for me. I don't recognize myself frequently in what I read about the chairman of the committee.

Mr. LEFFINGWELL. Then if I have performed no other service I have performed a great one in getting you to make that statement, Senator. I am delighted.

Dr. LUBIN. Mr. Chairman, may I ask a question?

The CHAIRMAN. Certainly.

Dr. LUBIN. It doesn't have a definite bearing upon what Mr. Nehemkis asked, but bearing upon what Mr. Leffingwell said in regard to cost. Is it your general opinion that actual labor costs in terms of unit costs of production are higher today than they were, let us say, oh, in 1936 or 1928 or 1929?

Mr. LEFFINGWELL. I am afraid I couldn't answer that in terms of unit costs of production. As I look at the experience of business in the country, it appears to me that the ratio, that the ratio of profit is steadily being squeezed in between those two forces. Is that not so, sir?

Dr. LUBIN. The reason I asked it was that I think pretty generally most of us don't distinguish between changing wage rates and changing labor costs. Such evidence as this committee has had from various people who are in the operating end of industry gives pretty definite—leads to the belief pretty definitely that modern technology, greater efficiency and operation, better distribution methods, and so forth, have really cut costs rather markedly, and that the increased wages have more than been offset by the increased productivity of labor during the last decade or two.

Mr. LEFFINGWELL. I should undoubtedly accept that. I think that the really distressing problem is that while we have been getting better wages for those fortunate people who are employed, the

management of our economy has been failing conspicuously for ten years to get a better pay roll in the pockets of all possible employees. That is the most distressing phenomenon of our managed money and our planned economy, and I think that it is due to the fact that the wage bill in terms per man is very high and the tax bill is very high and the burden of indebtedness is very, very high.

The CHAIRMAN. But is the wage bill high in terms of output? Now, for example, take the automobile industry, a modern automobile is produced at a much lower wage cost in terms of the actual product than it was 15 or 20 years ago, and that is what has enabled the motor industry to reduce prices to advantage.

Mr. LEFFINGWELL. Of course, that would be an absolutely controlling factor if one were to assume that this was a moribund or obsolete or senescent economy. To my mind it is a juvenile economy. I realize that there are those who think that the frontiers have met and that we are aged and exhausted, and that we have no future. To my mind, this is just an infant sort of a country and I don't know who is going to invent the next thing, but I know that the energies, the imagination, of the American people have risen to every opportunity that has been presented them, and I believe that the opportunities of the future are far greater than the opportunities of the present.

The CHAIRMAN. You are expressing a point of view that the chairman has frequently expressed.

Mr. HENDERSON. Mr. Leffingwell, in the first days of the hearings of this committee, my distinguished colleague here, Senator King, asked me whether I thought that we had stopped growing, and I responded, in the vernacular, by saying, "There's life in the old gal yet."

Mr. LEFFINGWELL. That's splendid, only I don't even think she is an old gal. [Laughter.]

Senator KING. Anybody that would despair for this Government in view of the conditions and confusion in all parts of the world, it seems to me, is a pessimist of the first water. This Nation has got to lead other nations by its example and I agree entirely with Mr. Leffingwell, the future of this country is better than it has been in the past.

Mr. LEFFINGWELL. I really think you ought to give 130,000,000 people a little more rope. I think, going back to the time when I had official burdens, however insignificant, we got into a phase of trying to manage all of us. It was necessary, we had a great big war on our hands, and I can be forgiven for thinking we did a swell job. But then we sort of relaxed, and I think we relaxed most exaggeratedly, as you all do. That went on for 10 years and we had another major crisis, and we had to manage things again, we had to do most drastic things. I have said we had to do that. I cannot agree with those whom I greatly respect, who criticize that decision: I think it was inevitable.

But I don't think we ought to go too far. I think we want a system of free enterprise, and I believe in those old-fashioned Americans being let loose on the plains and the rivers and the harbors, and the hilltops, and I think they will work out their destiny. I think they will do a superb job all over again, and I really believe the

relief of the world abroad, the future of mankind, depends on their having opportunity to do that.

Senator KING. Less regimentation, less discouragement of investment so many of these deposits in the banks drawing only small rates of interest, such as banks can pay, would be beneficial so it could be utilized in the expansion of business and in the creation of new business activities.

Mr. HENDERSON. Mr. Chairman, this committee is contemplating what we have termed a free-for-all public discussion. I think we have found candidate No. 1 for that.

Mr. LEFFINGWELL. Thank you very much; I would be grateful for the opportunity.

The CHAIRMAN. Of course, I think Mr. Leffingwell's comments should not be permitted to pass without just another little addition. There is the implication in what you say that the Government has undertaken an undue degree of management. You say, of course, that government has done this in the past. It did it when you were a part of Government because it had to do so, and there is a tendency now to say that the Government has done too much of this particular thing, but it should never be overlooked that during the past 6 years there has been practically no alternative proposal offered, except upon the part of certain unreconstructed Democrats like Senator King here.

Now, Senator King from the outset was opposed to the N. R. A. Take that as an example.

Senator KING. The Supreme Court said I was right—unanimously.

The CHAIRMAN. I was not a member of the Senate at the time, so I can speak as an observer.

Senator KING. And I think you agreed with me.

The CHAIRMAN. I am speaking now as an observer. The significant point is that before any inferences may be drawn out of any policy it must be remembered that that bill was adopted by a practically unanimous vote, and that there was no division, no political division, with respect to it. So today when I hear people talking about Government regimentation, and too much spending, for example, as in the case of the W. P. A., I can't forget that when the last appropriation bill, for example, for W. P. A. was passed there wasn't a single vote cast against it in the Senate of the United States, for all the criticisms, and there were only 23 votes cast against it in the House. So it was a program that was adopted because there was no alternative program.

In measuring our conclusions we must bear facts like that in mind, it seems to me.

Senator KING. May I make one addendum? When Mr. Leffingwell was in the Government we had a great war on. We called for more than 2,000,000 men, we had to send ships abroad, we called for large expenditures, we contracted a debt up to twenty-six billions of dollars in the prosecution of that very great war. So in the prosecution of war, as a rule, economic as well as political laws are silent. We bow to the necessity and the preservation and protection of our country, and if we get into another war undoubtedly there will be a system of regimentation which will be very obnoxious, but will be essential to properly prosecute the war.

TAX-EXEMPT INCOME TO J. P. MORGAN & CO. AND ITS PARTNERS

Mr. NEHEMKIS. Mr. Chairman, I hate to return to such mundane matters as Government securities and their attractiveness to banks, but I suppose one must.

You say, Mr. Leffingwell, that tax exemption makes the kind of investment you have been describing to us especially attractive to banks, and I think I commented at the time that about, well, over 85 percent of the earning assets of J. P. Morgan & Co., as of September 30, 1939, were invested in such Government securities, and I think you have already indicated that the same thing is true to a greater or less degree on the part of banks throughout the country?

Senator KING. That is true, is it not, you indicated that you thought that?

Mr. LEFFINGWELL. I accept the figures as to J. P. Morgan & Co., but—

Mr. WHITNEY. Eighty percent of our assets would be \$520,000,000, and our total tax exempts are \$385,000,000, because unfortunately at that time we had \$200,000,000 of cash which we were not able to invest in anything.

Senator KING. The point I was making related to the question of Mr. Nehemkis, that the banks, generally, throughout the United States have a very large amount of their deposits held in Government securities.

Mr. LEFFINGWELL. I think what I was trying to say (before I forgot myself and entered into this larger field) in answer to Mr. Miller, is, that after all, the object of the banks is to get a safe investment for their money and, of course, the safest investment for this money is Government obligations. And the pertinence of my general remarks is that there aren't other good loans being offered to the banks in sufficient volume, and I was attempting to show why there were not other good loans being offered to the banks in sufficient volume.

As far as tax exemption is concerned, under the same conditions which exist today if the Government were to be selling other taxable securities, I should not expect to see the banks' portfolios change.

Mr. NEHEMKIS. This income that is tax exempt to incorporated banks is not exempt to the stockholders of such banks, is that correct?

Mr. LEFFINGWELL. The dividends are not exempt, but of course the income—

Mr. NEHEMKIS (interposing). I meant dividends. However, Mr. Leffingwell, whatever is tax-exempt income to the firm of J. P. Morgan & Co. is tax-exempt income to the partners personally, is that not true?

Mr. LEFFINGWELL. That is correct.

Mr. NEHEMKIS. Are not all of the expenses of J. P. Morgan & Co. charged against taxable income, pursuant to section 25 (a) (5) of the Revenue Act?

Mr. LEFFINGWELL. I suppose expenses are a deduction from total income.

Mr. NEHEMKIS. So there is in most years, Mr. Leffingwell, little if any income taxable to the partners of J. P. Morgan & Co.?

Mr. LEFFINGWELL. Not most years. When years are as bad as some have been there isn't any taxable income, but in many years our taxable income has been very great and our taxes have been very great.

Mr. NEHEMKIS. Mr. Leffingwell, is not substantially the entire income of the partners of the firm exempt from Federal income tax?

Mr. LEFFINGWELL. It depends entirely upon the year, I think.

Mr. NEHEMKIS. In 1938 it was entirely exempt, was it not, sir?

Mr. LEFFINGWELL. I don't remember.

Mr. NEHEMKIS. Would you accept my statement, subject to correction?

Mr. LEFFINGWELL. Yes.

Mr. NEHEMKIS. So in 1938 the partners of J. P. Morgan & Co. paid no income taxes on their earnings of nearly \$4,000,000 from the firm?

Mr. LEFFINGWELL. I don't know whether that is true or not. I don't know whether the earnings were \$4,000,000. I know that if they paid no taxes it was because there was no taxable income.

Mr. NEHEMKIS. Do you have any comment on that, Mr. Whitney?

Mr. WHITNEY. On this last?

Mr. NEHEMKIS. Yes; do you want to correct it?

Mr. WHITNEY. No. I have a lot on your earlier things. You must remember we have to make earnings before taxes are due, and, of course, our holdings of governments are not wholly tax-exempt. In running a bank, as Mr. Leffingwell indicated, you have to run your portfolio on what the market has to offer. The figures you gave of 85 percent was after the deduction of cash. You could have made that percentage higher if you had taken out real estate and other things, like cash, that have no income. Our total assets tell a different story. On that I can't speak. I would have to look it up. I don't like to guess, but I am sure all our holdings of governments are far from being tax-exempt, except insofar as they are all tax-exempt on normal income. As to the municipals, yes, that would be true—\$65,000,000. But I am not competent to talk about taxes, I only know we have to pay them.

Mr. NEHEMKIS. As I said earlier, I deeply regret we can't have the pleasure of having Mr. Leffingwell's discussion on that very vital problem of the role and function of bank deposits, and I hope that Mr. Leffingwell will be able to do that with us at some later date.

I have no further questions, sir.

The CHAIRMAN. Are there any more questions to be addressed to Mr. Leffingwell?

Thank you very much, sir.

Any other witness this afternoon?

Mr. NEHEMKIS. No, sir.

The CHAIRMAN. What is your program now?

Mr. NEHEMKIS. As I understand, we meet again with the committee some time after the new year, the date to be fixed by the committee, is that correct?

Senator KING. I suggest we leave it to be fixed by the committee and Mr. Henderson, and then we can give ample notice to all witnesses.

The CHAIRMAN. Thank you very much, Mr. Whitney.

Mr. WHITNEY. We are discharged?

The CHAIRMAN. You are dismissed for the present. I will wish you a Merry Christmas now.

The committee will stand in recess then, so far as the investment banking hearing is concerned, until the call of the Chair.

Tomorrow, in this room, the hearing upon certain phases of the insurance problem, which has been going on in Room 357, will be resumed. The Chair wishes to urge all members of the committee who may possibly do so to attend this insurance study.

The committee will now stand in recess.

(Whereupon, at 4:05 p. m., an adjournment was taken subject to call of the chairman.)

APPENDIX

EXHIBIT No. 1659-1

[From files of Federal Communications Commission]

In view of any possible attempt of the opposition to the National Bell Telephone Company or others to buy up a majority interest in said Company, and of the danger to the interests of the minority if this should be accomplished the undersigned hereby agree in respect to the stock in said National Bell Telephone Co. owned by them and to the amount placed opposite their names as follows:—

They will not sell any part of said stock except to the subscribers of this paper unless all of said subscribers agree to sell all of said subscribed stock and have the opportunity to do so, at a price satisfactory to each: they will not agree to give proxies to vote upon said stock to any other than some of the said subscribers.

This agreement is to remain in force until April 1st, 1880, but it may be terminated at any time with the unanimous consent of the subscribers, but not without. It is not to be binding unless at least 3,700 shares are subscribed Boston, April 2nd.

W. H. Forbes, 300 shares; J. Malcolm Forbes, 100 shares; H. L. Higginson, 635 shares; Y. S. Gardner, Jr., 75 shares; C. E. Perkins, per W. H. F., 150 shares; Thomas Sanders, 500 shares; Thomas A. Watson, 300 shares; George L. Bradley, 525 shares; W. G. Saltonstall, 25 shares; Arthur W. Slake, 100 shares; C. S. Bradley, 218 shares; Francis Blake, Jr., 325 shares; R. S. Fay, 100 shares; A. Lochranets, 100 shares; J. N. A. Griswold, by W. H. Forbes, 100 shares; H. S. Russell, by W. H. Forbes, 150 shares; C. C. Jackson, 50 shares; C. Williams, Jr., 50 shares.

Boston, Dec. 15th, 1879.

We the undersigned, mutually agree to release each other from all the obligations of the above written agreement.

W. H. Forbes, H. S. Russell, by W. H. Forbes, J. N. A. Griswold, by W. H. Forbes, C. E. Perkins, by W. H. Forbes, Geo. L. Bradley, T. A. Watson, C. Williams, Jr., Thomas Sanders, W. G. Saltonstall, H. L. Higginson, R. S. Fay, A. Lochranets, Francis Blake, Jr., Arthur W. Slake, J. Malcolm Forbes, C. C. Jackson, John L. Gardner, Jr., C. S. Bradley.

[Presidents File No. 1879 Apl 2 Agreement Not to sell. Release Room 1124—195 Bwy. N Y C. A T & T. Co. Inv. C. anyst.]

EXHIBIT No. 1659-2

[From files of Federal Communications Commission]

AMERICAN TELEPHONE AND TELEGRAPH COMPANY AND PREDECESSORS

SCHEDULE 1a.—List of Directors of Predecessors Prior to 1900 With Their Terms of Office Including Directorships Held by Them in American Telephone and Telegraph Company

Name of Director	Bell Telephone Company (Association)	New England Telephone Company	Bell Telephone Company (Corporation)	National Bell Telephone Company	American Bell Telephone Company	American Telephone and Telegraph Company
(a)	(b)	(c)	(d)	(e)	(f)	(g)
Bell, A. G.	{ 8-1-77 7-2-85				9-9-11 12-16-21	
Hubbard, C. E.	{ 8-1-77 7-2-85	2-2-78 5-26-03	7-20-78 5-26-03	3-10-79 5-26-03	3-31-80 12-16-21	5-9-00 8-24-28
Hubbard, G. G.	{ 8-1-77 7-2-85	2-2-78 1-30-82	7-20-78 6-21-80	3-10-79 4-12-82	5-14-80 12-10-97	
Sanders, T.	{ 8-1-77 7-2-85	2-2-78 5-26-03	7-20-78 5-26-03	3-10-79 5-26-03	5-14-80 8-7-11	5-9-00 8-7-11
Watson, T. A.	{ 8-1-77 7-2-85	2-2-78 1-30-82	7-20-78 1-30-82			
Bradley, C. S.		2-2-78 1-30-82	12-31-78 6-21-80	3-10-79 4-12-82	5-14-80 3-11-85	
Cochrane, A.		2-2-78 1-28-89	1-30-82 5-26-03	3-10-79 3-8-86	5-14-80 3-28-11	1-6-93 4-10-19
Silsbee, G. Z.		2-2-78 1-30-82		3-10-79 4-12-82	3-31-80 5-14-80	
Saltonstall, W. G.		2-2-78 2-2-85	1-30-82 10-8-84	4-7-79 3-10-90	3-31-80 11-29-86	
Goodspeed, J. H.			{ 7-20-78 12-31-78			
Sturgis, J.			{ 7-20-78 12-31-78			
Bradley, G. L.			{ 7-20-78 1-30-82	3-10-79 4-12-82	3-31-80 3-26-06	5-9-00 3-26-06
Bailey, T. B.	{ 1-25-97 5-26-03	7-20-78 12-31-78	3-10-79 4-7-79	3-10-79 3-31-80	3-31-80 3-29-21 (A)	5-9-00 3-30-15 (A)
Forbes, W. H.	{ 1-30-82 9-19-87	12-31-78 9-19-87	3-10-79 9-19-87	3-10-79 10-11-97	3-31-80 10-11-97	9-2-85 9-23-97 (A)
Blake, F., Jr.		{ 12-31-78 1-30-82	3-10-79 4-12-82	3-10-79 3-12-82	3-31-80 3-28-11	5-9-00 1-19-13
Fay, R. S.			{ 3-10-79 3-12-82		3-21-80 3-28-82	
Emerson, C.	{ 1-30-82 1-28-84	6-21-80 9-13-82			3-31-80 5-14-80	
Driver, W. R.	{ 1-30-82 5-26-03	6-21-80 5-26-03	4-12-82 5-26-03			
Whitcomb, C. M.	{ 1-16-91 1-28-95	3-10-90 3-11-95	3-10-90 3-11-95		3-31-80 5-14-80	
Devonshire, R. W.	{ 1-27-90 5-26-03	9-10-89 5-26-03	4-12-82 5-26-03		3-31-80 12-16-21 (A)	5-8-90 5-7-92
Bowditch, C. P.		{ 10-8-84 5-26-03			5-14-80 3-20-07 (A)	11-30-85 3-20-07 (A)
Minturn, R. B.					{ 3-29-81 7-13-87	
Hudson, J. E.	{ 1-30-82 10-1-00	1-30-82 9-2-00	5-12-82 10-1-00		11-29-86 10-1-00	3-9-86 10-1-00
Clapp, C.					{ 3-28-82 6-20-88	3-9-86 5-21-88
Phillips, G. L.			{ 4-12-82 3-10-84			
Madden, O. E.			{ 4-12-82 3-8-86			
Vail, T. N.	{ 4-12-82 3-9-91					8-14-85 5-7-92
Stone, P. S.	{ 1-28-84 1-26-91	9-13-82 9-10-89	3-10-81 3-9-91		{ 3-25-02 4-16-20	3-25-02 4-16-20
Perkins, C. E.					{ 3-11-85 5-14-07	5-9-00 5-14-07
French, C. J.	{ 1-28-89 5-26-03	9-9-91 5-26-03	3-8-86 5-26-03			
Stockton, H.	{ 9-19-87 1-27-90	9-19-87 0-10-90	9-19-87 3-10-90		7-13-87 5-14-90	9-19-87 5-8-90
Blake, S.					{ 3-26-89 5-8-89	
Howe, H. S.					{ 5-8-89 12-16-21	12-24-96 3-2-31

(A) Indicates director was in and out during periods

SCHEDULE 1a.—*List of Directors of Predecessors Prior to 1900 With Their Terms of Office Including Directorships Held by Them in American Telephone and Telegraph Company—Continued*

Name of Director (a)	Bell Telephone Company (Association) (b)	New England Telephone Company (c)	Bell Telephone Company (Corporation) (d)	National Bell Telephone Company (e)	American Bell Telephone Company (f)	American Telephone and Telegraph Company (g)
Sherwin, T.	{ 3-10-90 5-26-03	.....	.....
Ware, C. P.	{ 3-9-91 5-26-03	.....	.....
Hutchinson, W. S.	{ 1-28-95 5-26-03	{ 9-2-00 5-26-03	{ 3-11-95 5-26-03	.....	.....
Amory, C. W.	{ 3-26-95 3-28-11	{ 9-23-97 5-20-13
Williams, M.	{ 3-26-95 8-21-19	{ 5-9-00 8-21-19
Milne, G. D.	{ 3-8-97 5-26-03	.....	{ 3-26-18 3-25-19
Coolidge, T. J., Jr.	{ 3-30-97 3-28-11	{ 5-9-00 4-14-12
Forbes, J. M.	{ 1-19-98 2-19-04	{ 5-9-00 2-19-04

EXHIBIT No. 1659-3

[From files of Federal Communications Commission]

AMERICAN BELL TELEPHONE COMPANY

SCHEDULE 1b.—*Officers and Members of Executive Committee Years 1885 to 1900, Inclusive*

Name (a)	Executive Committee (b)	President (c)	Vice President (d)	Treasurer (e)	Clerk (f)	Auditing Committee ¹ (g)
Hubbard, C. E. ....	.....	.....	.....	.....	{ 3-31-85 26-28-21	.....
Driver, W. R. ....	.....	.....	.....	{ 3-31-85 3-31-14	.....	.....
Forbes, W. H.	{ 4-3-85 3-29-98	{ 4-3-85 3-29-88	.....	.....	.....	.....
Bowditch, C. P.	{ 4-3-85 3-30-87 3-29-92 3-30-97	.....	{ 4-3-85 3-30-87	.....	.....	.....
Cochrane, A.	{ 4-3-85 3-31-86 3-28-93 3-27-94 3-26-95 4-9-07	.....	.....	.....	.....	{ 3-30-87 3-29-88
Saltonstall, W. G. ....	.....	.....	.....	.....	.....	{ 4-3-85 3-30-87
Clapp, C.	{ 3-31-86 3-29-88	.....	.....	.....	.....	.....
Hudson, J. E.	{ 3-30-87 10-1-00	{ 4-1-89 3-28-01	{ 3-30-87 4-1-89	.....	.....	.....
Stockton, H.	{ 3-29-88 4-1-89	{ 3-29-88 4-1-89	.....	.....	.....	.....
Blake, F. ....	.....	.....	.....	.....	.....	{ 3-29-88 3-28-01
Howe, H. S.	{ 3-30-97 4-3-11	.....	.....	.....	.....	.....
Amory, C. W.	{ 3-29-98 4-9-07	.....	.....	.....	.....	.....

¹ From April 3, 1885 to March 30, 1887, known as the Standing Committee for Auditing the Accounts, and from March 28, 1899 to March 28, 1901, the Committee on Treasurer's Accounts.

² Pensioned between 1914 and 1917.

EXHIBIT No. 1659-4

[From files of Federal Communications Commission]

AMERICAN TELEPHONE AND TELEGRAPH COMPANY AND PREDECESSOR COMPANIES

SCHEDULE 2.—Per Cent of Equity Ownership by Directors, Other Officers and Their Family Relations as of Selected Dates From July 9, 1877 to September 16, 1935¹

BELL TELEPHONE COMPANY (ASSOCIATION)

Date	Total outstanding shares	Per Cent of Outstanding Shares Held By			
		Directors ²	Other Officers	Family Relations ³	Directors, Other Officers and Family Relations
(a)	(b)	(c)	(d)	(e)	(f)
July 9, 1877.....	5,000	68.06	-----	31.94	100.00
July 20, 1878.....					

NEW ENGLAND TELEPHONE COMPANY

February 12, 1878.....	2,000	100.00	-----	-----	100.00
March 10, 1879.....	2,000	28.20	8.05	5.40	41.65

BELL TELEPHONE COMPANY (CORPORATION)

July 20, 1878.....	4,500	75.24	1.76	19.82	96.82
March 10, 1879.....	4,500	54.25	1.11	19.66	75.02

NATIONAL BELL TELEPHONE COMPANY

March 10, 1879.....	7,250	55.04	0.10	21.26	76.40
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AMERICAN BELL TELEPHONE COMPANY

December 8, 1880.....	73,500	40.13	3.83	12.44	56.40
March 28, 1885.....	96,021	12.91	.02	8.53	21.46
March 31, 1890.....	112,971	5.13	-----	6.31	11.44
March 30, 1895.....	205,000	3.95	-----	6.45	10.40
March 31, 1900.....	258,863	1.37	-----	3.67	5.04

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

March 17, 1905.....	1,315,514	1.88	-----	-----	-----
March 31, 1910.....	2,592,894	2.31	-----	-----	-----
March 31, 1915.....	3,579,779	1.30	-----	-----	-----
March 19, 1920.....	4,420,615	.86	-----	-----	-----
March 17, 1925.....	8,915,329	.57	-----	-----	-----
March 14, 1930.....	13,909,697	.73	-----	-----	-----
September 16, 1935.....	18,662,275	.06	-----	-----	-----

¹ Information as of March 31, 1900 and prior dates was compiled from the stock records of the companies. Data on per cent of outstanding shares held by directors of American Telephone and Telegraph Company, were obtained from compilations made by the company.

² From July 9, 1877 to March 31, 1900, includes percentage of shares held by directors as trustees or agents. From March 17, 1905 to September 16, 1935, the percentages are for shares owned by directors. However, if 271,104 shares of American Telephone and Telegraph Company common stock, held by American Bell Telephone Company and voted by Frederick P. Fish, President, were included, the percentage for March 17, 1905 would be 18.65.

³ The per cent of outstanding shares held by family relations of directors and other officers of the companies prior to 1900 is computed on the basis of holdings of individuals with the same surname.

EXHIBIT No. 1659-5

No. S-26-E
Inv. CA
Dept. Treasury
File 012.11

TABLE No. 1.—*Stock Outstanding and Number of Stockholders*

Nearest Available Record Date to Annual Meeting	Shares Outstanding ¹	Number of Stockholders	Average Shares Per Stockholder ¹	
			Including A. & P. Co., B. T. S. Co., and Trustees for Employees	Excluding A. & P. Co., B. T. S. Co., and Trustees for Employees
1926.....	9,234,772	266,525	25.2	25.1
1925.....	8,915,329	349,191	25.5	25.5
1924.....	7,472,728	299,498	24.9	24.8
1923.....	7,088,913	256,041	27.7	27.6
1922.....	5,601,252	197,825	28.3	27.9
1921.....	4,435,246	146,490	30.2	29.7
1920.....	4,420,615	124,172	35.5	34.4
1919.....	4,419,495	113,860	38.8	38.5
1918.....	4,358,965	88,651	49.1	47.9
1917.....	3,958,633	73,600	53.8	52.1
1916.....	3,848,239	66,938	57.5	55.6
1915.....	3,579,779	61,512	58.2	56.2
1914.....	3,446,377	56,946	60.5	60.2
1913.....	3,440,960	52,080	66.2	63.5
1912.....	3,243,617	49,064	66.2	66.1
1911.....	2,682,422	40,686	66.2	62.0
1910.....	2,592,894	37,594	68.8	66.8
1909.....	1,909,205	28,545	66.9	66.9
1908.....	1,525,280	24,189	63.1	63.1
1907.....	1,315,514	18,549	70.9	70.9
1906.....	1,315,514	17,542	75.0	75.0
1905.....	1,315,514	17,055	77.1	77.1
1904.....	1,270,689	16,121	78.8	78.8
1903.....	1,097,164	11,887	92.3	92.3
1902.....	877,480	9,609	91.3	91.3
1901.....	621,271	7,858	79.1	79.1
1900.....	258,863	6,961	37.2	37.2
1899.....	258,863	6,863	37.7	37.7
1898.....	258,863	6,886	37.6	37.6
1897.....	236,500	6,474	36.5	36.5
1896.....	215,000	5,778	37.2	37.2
1895.....	205,000	5,572	36.8	36.8
1894.....	200,000	5,247	38.1	38.1
1893.....	174,985	4,542	38.5	38.5
1892.....	150,000	3,945	38.0	38.0
1891.....	125,000	3,501	35.7	35.7
1890.....	112,971	2,734	41.3	41.3
1889.....	100,000	2,066	48.4	48.4
1888.....	95,521	1,770	55.7	55.7
1887.....	98,021	1,818	53.9	53.9
1886.....	98,021	1,826	53.7	53.7
1885.....	96,021	1,607	59.8	59.8
1884.....	96,021	1,532	62.7	62.7
1883.....	59,500	873	61.2	61.2
1882.....	59,500	724	82.2	82.2
1881.....	59,500	640	110.2	110.2

¹ Excluding shares held in name of A. B. T. Co. and treasury stock.

No. S-26-1'
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Dept. Treasury
File 012.11

TABLE No. 2.—*Financial Interest of Large Stockholders*¹

Nearest Available Record Date to Annual Meeting	Holders of 1000 Shares and Over			20 Largest Stockholders	
	Number	Shares Held	% of Stock Outstanding	Shares Held	% of Stock Outstanding
1926.....	425	1,113,926	12.1	460,819	4.3
1925.....	439	1,136,816	12.8	398,776	4.5
1924.....	367	902,206	12.1	396,779	4.1
1923.....	385	980,423	13.8	325,176	4.6
1922.....	342	769,601	13.7	231,640	4.1
1921.....	253	617,419	13.9	173,635	3.9
1920.....	327	749,738	17.0	193,021	4.4
1919.....	385	906,407	20.5	202,039	4.6
1918.....	416	978,161	22.4	216,884	5.0
1917.....	391	877,485	22.2	221,421	5.6
1916.....	389	906,730	23.6	233,631	6.1
1915.....	373	877,036	24.5	224,765	6.3
1914.....	368	904,923	26.2	234,393	6.8
1913.....	371	958,757	27.9	233,231	6.8
1912.....	377	981,522	30.3	258,000	8.0
1911.....	296	698,561	26.0	209,846	7.8
1910.....	304	740,102	28.5	221,693	8.6
1909.....	198	577,056	30.2	258,720	13.6
1908.....	163	458,968	30.0	216,209	11.2
1907.....	155	403,465	30.7	192,479	14.6
1906.....	165	398,580	30.3	149,555	11.4
1905.....	180	411,610	31.3	146,367	11.1
1904.....	176	402,793	31.7	143,398	11.3
1903.....	166	375,312	34.2	140,420	12.8
1902.....	108	284,624	32.4	149,766	17.1
1901.....	82	167,549	27.0	86,541	13.9
1900.....	25	40,100	15.5	35,023	13.5
1899.....	16	28,313	10.9	31,819	12.3
1898.....	23	39,628	15.3	38,628	14.9
1897.....	19	36,516	15.4	37,462	15.8
1896.....	18	45,360	21.1	47,120	21.9
1895.....	14	25,871	12.6	31,123	15.2
1894.....	16	28,916	14.5	32,476	16.2
1893.....	11	22,857	13.1	29,511	16.9
1892.....	10	19,277	12.9	26,853	17.9
1891.....	7	11,930	9.5	21,730	17.4
1890.....	11	17,655	15.6	23,610	20.9
1889.....	10	18,503	18.5	26,380	26.4
1888.....	11	23,579	23.9	31,365	31.8
1887.....	12	22,660	23.1	28,651	29.2
1886.....	11	19,918	20.3	27,263	27.8
1885.....	13	23,371	24.3	27,953	29.1
1884.....	9	23,656	24.6	31,841	33.2
1883.....	8	14,824	24.9	21,648	36.4
1882.....	8	16,837	28.3	21,114	40.5
1881.....	11	27,383	46.0	33,190	55.8

¹ Excluding A. & P. Co., B. T. S. Co., and trustees for employees. Stock outstanding includes shares carried in these names but excludes holdings of A. B. T. Co. and treasury stock.

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TABLE NO. 4.—*Financial Interest of the Directors*

Nearest Available Record Date to Annual Meeting	Board of Directors			Present Board of Directors		
	Number	Shares Held	% of Stock Outstanding ¹	Number Holding Stock 1926-1912	Shares Held	
					Number	% of Holdings in 1926
1926	19	50,892	0.6	19	50,892	100.0
1925	19	50,894	.6	19	50,894	100.0
1924	19	77,205	1.0	19	77,157	150.6
1923	19	67,132	.9	18	65,992	128.7
1922	19	43,409	.8	18	42,323	82.2
1921	19	27,749	.6	17	27,980	54.0
1920	19	38,036	.9	14	27,580	53.2
1919	17	43,471	1.0	12	26,761	51.6
1918	17	50,507	1.2	11	27,031	52.1
1917	17	47,575	1.2	12	26,654	51.4
1916	17	46,713	1.2	12	26,968	52.0
1915	17	46,451	1.3	10	26,565	51.2
1914	25	45,912	1.3	10	25,286	48.7
1913	25	55,677	1.6	9	26,147	50.4
1912	25	58,571	1.8	9	23,617	45.4
1911	25	55,829	2.1			
1910	18	59,753	2.3			
1909	18	25,511	1.3			
1908	18	31,796	2.1			
1907	18	24,397	1.9			
1906	18	29,193	2.2			
1905	18	24,809	1.9			
1904	18	24,553	1.9			
1903	18	32,456	3.0			
1902	18	12,866	1.5			
1901	15	6,025	1.0			
1900	13	2,198	.9			
1899	13	2,445	.9			
1898	13	2,978	1.2			
1897	13	4,542	1.9			
1896	13	6,007	2.8			
1895	13	5,955	2.9			
1894	12	6,818	3.4			
1893	12	6,073	3.5			
1892	12	5,530	3.7			
1891	12	5,110	4.1			
1890	12	5,615	5.0			
1889	12	7,398	7.4			
1888	12	7,376	7.5			
1887	12	7,556	7.7			
1886	12	8,158	8.3			
1885	12	8,089	8.4			
1884	12	8,158	8.5			
1883	12	7,104	11.9			
1882	12	8,041	13.5			
1881	12	13,181	22.2			
1880	11	9,144				

¹ Excluding shares held in name of A. B. T. Co. and treasury stock.

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TABLE NO. 6.—*Degree of Control by Large Stockholders*¹

Nearest Available Record Date to Annual Meeting	Estimated Minimum Number of Stockholders Owning Majority of:		Shares Held By Holders of 1000 Shares and Over		Shares Held By 20 Largest Stock- holders		Shares Held By Board of Direc- tors	
	Shares Out- standing ²	Shares Voted at Annual Meet- ings ³	% of Majority Out- standing ²	% of Majority Voted at Annual Meet- ings ³	% of Majority Out- standing ²	% of Majority Voted at Annual Meet- ings ³	% of Majority Out- standing ²	% of Majority Voted at Annual Meet- ings ³
1926.....	23,000	8,500	24.1	37.1	8.7	13.4	1.2	1.7
1925.....	21,000	7,500	25.5	39.0	9.0	13.7	1.2	1.7
1924.....	12,000	3,000	24.1	37.9	8.2	12.9	2.0	3.2
1923.....	13,000	3,250	27.6	43.6	9.2	14.5	1.8	3.0
1922.....	11,000	1,500	27.4	43.3	8.3	13.0	1.6	2.4
1921.....	8,000	2,000	27.9	45.2	7.8	12.7	1.2	2.0
1920.....	6,800	1,750	33.9	52.6	8.7	13.5	1.8	2.7
1919.....	5,700	1,750	41.0	67.5	9.1	15.0	2.0	3.2
1918.....	4,500	1,700	44.8	70.3	9.9	15.6	2.4	3.6
1917.....	3,600	1,500	44.3	66.2	11.2	16.7	2.4	3.6
1916.....	3,400	1,500	47.1	72.9	12.1	18.8	2.4	3.8
1915.....	3,300	900	49.0	79.8	12.5	20.4	2.6	4.2
1914.....	2,750	900	52.5	86.1	13.6	22.3	2.6	4.4
1913.....	2,750	850	55.7	87.9	13.5	21.4	3.2	5.1
1912.....	1,150	375	60.5	101.7	15.9	26.7	3.6	6.1
1911.....	1,100	350	52.1	86.9	15.6	26.1	4.2	6.9
1910.....	1,500	325	57.1	94.8	17.1	28.4	4.6	7.7
1909.....	775	225	60.4	83.7	27.2	37.5	1.6	3.7
1908.....	775	240	60.2	78.0	28.4	36.7	4.2	5.4
1907.....	775	250	61.4	78.5	29.2	37.4	3.8	4.8
1906.....	675	300	60.6	72.4	22.8	27.2	4.4	5.3
1905.....	675	220	62.6	77.2	22.2	27.4	3.8	4.7
1904.....	625	225	63.2	75.2	22.6	26.8	3.8	4.6
1903.....	500	230	68.4	77.4	25.6	28.9	6.0	6.7
1902.....	400	110	64.8	97.0	34.2	51.0	3.0	4.4
1901.....	400	108	54.0	91.9	27.8	47.5	2.0	3.3
1900.....	400		31.0		27.0		1.8	
1899.....	400		21.9		24.6		1.8	
1898.....	400		30.6		29.8		2.4	
1897.....	400		30.9		31.8		3.8	
1896.....	225		42.2		43.8		5.6	
1895.....	225		25.2		30.4		5.8	
1894.....	225		28.9		32.5		6.8	
1893.....	225		26.1		33.8		7.0	
1892.....	200		55.7		35.8		7.4	
1891.....	200		19.0		34.6		8.2	
1890.....	200		30.3		41.8		10.0	
1889.....	200		37.0		52.8		14.8	
1888.....	110		47.9		63.8		15.0	
1887.....	110		46.2		58.6		15.4	
1886.....	110		40.6		55.8		10.6	
1885.....	110		48.7		58.4		16.8	
1884.....	110		49.3		66.2		17.0	
1883.....			49.8		72.6		23.8	
1882.....	50		56.6		81.0		27.0	
1881.....	19		92.0		111.6		41.4	

¹ Excluding A. B. T. Co., A. & P. Co., B. T. S. Co., and trustees for employees.² Excluding shares held in name of A. B. T. Co. and treasury stock.³ Including unvoted shares in the name of A. & P. Co., B. T. S. Co., and trustees for employees.

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TABLE No. 7.—*Potential Control by Directors*

Nearest Available Record Date to Annual Meeting	Shares Held By:			% of Total to Stock Outstanding ¹	% of Total to Shares Voted ²
	Board of Directors	A. & P. Co., B. T. S. Co., and Trustees for Employees	Total		
1925	50,892	51,538	102,430	1.1	1.7
1925	50,894	20,253	71,147	.8	1.2
1924	77,205	35,858	113,063	1.5	2.4
1923	67,132	23,251	90,383	1.3	2.0
1922	43,400	86,187	129,586	2.3	3.6
1921	27,749	85,288	113,037	2.5	4.1
1920	38,036	152,392	190,428	4.3	6.7
1919	43,471	39,448	82,919	1.9	3.1
1918	50,507	104,911	155,418	3.6	5.6
1917	47,575	126,926	174,501	4.4	6.6
1916	46,713	127,523	174,236	4.5	7.0
1915	46,451	122,336	168,787	4.7	7.7
1914	45,912	19,359	65,271	1.9	3.1
1913	55,677	134,528	190,205	5.5	8.7
1912	58,571	531	59,102	1.8	3.1
1911	55,829	159,832	215,661	8.0	13.4
1910	59,788	82,906	142,694	5.5	9.1
1909	25,511	—	25,511	1.3	1.8
1908	31,796	—	31,796	2.1	2.7
1907	24,597	—	24,597	1.9	2.4
1906	29,193	—	29,193	2.2	2.7
1905	24,809	—	24,809	1.9	2.3
1904	24,553	—	24,553	1.9	2.3
1903	32,456	—	32,456	3.0	3.3
1902	12,866	—	12,866	1.5	2.2
1901	6,025	—	6,025	1.0	1.7
1900	2,198	—	2,198	.8	—
1899	2,445	—	2,445	.9	—
1898	2,978	—	2,978	1.2	—
1897	4,542	—	4,542	1.9	—
1896	6,007	—	6,007	2.8	—
1895	5,955	—	5,955	2.9	—
1894	6,818	—	6,818	3.4	—
1893	6,073	—	6,073	3.5	—
1892	5,530	—	5,530	3.7	—
1891	5,110	—	5,110	4.1	—
1890	5,615	—	5,615	5.0	—
1889	7,398	—	7,398	7.4	—
1888	7,376	—	7,376	7.5	—
1887	7,556	—	7,556	7.7	—
1886	8,158	—	8,158	8.3	—
1885	8,089	—	8,089	8.4	—
1884	8,158	—	8,158	8.5	—
1883	7,104	—	7,104	11.9	—
1882	8,041	—	8,041	13.5	—
1881	13,181	—	13,181	22.2	—
1880	9,144	—	9,144	—	—

¹ Excludes holdings of A. B. T. Co. and treasury stock.

² Includes unvoted shares of A. & P. Co., B. T. S. Co., and trustees for employees.

F. H. B.
H. C. H.

TABLE NO. 8.—*Estimated Number of Stockholders in Addition to Large Holders and in Addition to Directors Necessary To Control Annual Meeting—Based Upon Residual Average Shareholdings*¹

Nearest Available Record Date to Annual Meeting	Estimated Number of Holders Necessary to Control Annual Meeting in Addition to:			
	Holders of 1000 Shares and Over ²	20 Largest Stockholders ²	Board of Directors	Board of Directors Plus A. & P. Co., B. T. S. Co., and Trustees for Employees
1926	85,706	108,277	118,416	116,346
1925	80,194	103,636	113,290	112,458
1924	67,928	87,238	93,733	92,275
1923	53,282	73,132	79,905	78,765
1922	41,905	57,816	62,524	59,413
1921	29,407	41,883	45,408	42,517
1920	23,796	37,577	46,090	36,221
1919	14,273	31,094	34,113	33,077
1918	11,187	25,885	28,363	26,200
1917	11,098	22,493	24,869	22,400
1916	7,954	19,377	21,794	19,471
1915	5,271	16,629	18,973	16,769
1914	3,286	14,552	16,917	16,592
1913	2,905	14,537	16,590	14,434
1912		11,605	13,963	13,955
1911	2,331	10,441	12,325	9,691
1910	848	9,174	11,052	9,781
1909	2,399	7,446	10,065	10,065
1908	2,923	6,874	9,012	9,012
1907	2,233	5,309	7,025	7,025
1906	2,877	6,029	7,102	7,102
1905	2,270	5,640	6,708	6,708
1904	2,445	5,605	6,605	6,605
1903	1,783	4,277	5,047	5,047
1902	142	1,894	3,115	3,115
1901	252	1,405	2,249	2,249

¹ In the computations for this table, unvoted shares of the A. & P. Co., B. T. S. Co., and trustees for employees have been included in shares voted at annual meetings, and these holdings as well as those of the A. B. T. Co. have been excluded in determining average holdings outside of the groups of large holders indicated.

² Excluding A. B. T. Co., A. & P. Co., B. T. S. Co., and trustees for employees.

No. S-26-L
 Inv. CA
 Dept. Treasury
 File 012.11

EXHIBIT No. 1659-6

American Telephone and Telegraph Company and Predecessor, American Bell Telephone Company—Long Term Debt Issues—1880 to 1905, Inclusive

[From files of Securities and Exchange Commission]

Name of Issue	Year Issued	Principal Amount	Selling Price Per \$100 Principal Amount	Net Proceeds	Com- peti- tive Bid- ding	To Whom Sold
American Bell Telephone Company:						
Coupon Convertible 6% Notes.	1880-1881	\$476,000	\$100	\$476,000	No....	Pro Rata to Stock holders.
	1881	15,000	136.33	20,450	(1)	(2)
	1881	9,000	140	12,600	(1)	(2)
Convertible 6% Coupon Notes.	1882-1883	645,000	100	645,000	No....	Pro Rata to Stock-holders.
Seven Per Cent Deben- ture Bonds.	1883	1,987,500	100	1,987,500	No....	Pro Rata to Stock-holders.
	1888	12,500	Various	14,002	(1)	Lee, Higginson & Co.
Ten-Year Debenture 4% Coupon Bonds.	1898	5,000,000	100.771	5,038,550	Yes...	Do.
	1899	3,000,000	102.327	3,069,810	Yes...	R. L. Day & Co.
	1899	2,000,000	101.71	2,034,200	Yes...	Estabrook & Co., R. L. Day & Co. and Vermilyne & Co.
American Telephone and Telegraph Company:						
Four Per Cent Collateral Trust Bonds.	1900	7,000,000	95	6,650,000	No....	Kidder, Peabody & Co.
	1900	3,000,000	96-97	2,895,000	No....	Do.
	1901	5,000,000	95	4,750,000	No....	Do.
	1902	213,000,000	-----	-----	No....	Do.
	1905	20,000,000	94.19	18,838,000	Yes...	Do. and Baring Bros. & Co., Ltd.
Three-Year 5% Gold Coupon Notes.	1904	20,000,000	97.77	19,554,000	Yes...	Speyer & Co. and Lee, Higginson & Co.

¹ Sold at auction.² Data not available.

³ Delivered to Kidder, Peabody & Co. in exchange for \$12,000,000 par value of preferred stock and \$8,000,100 par value of common stock of Western Telephone and Telegraph Company, successor to Erie Telephone and Telegraph Company. Alternative sale price on the first \$7,000,000 of these bonds delivered to Kidder, Peabody & Co., in case the Erie Company reorganization did not materialize, was 95.

⁴ \$25,000,000 principal amount of Four Per Cent Collateral Trust Bonds pledged as collateral to this note issue.

EXHIBIT No. 1659-7

[From files of Federal Communications Commission]

(Handwritten:) P. F. File. 6/3/08. A. A. M.

LEE, HIGGINSON & COMPANY,
44 State Street, Boston, April 8, 1904.

Personal.

H.

FREDERICK P. FISH, Esq.,

President, American Telephone & Telegraph Co.,
Boston, Massachusetts.

MY DEAR MR. FISH: I was with Jim Storrow in New York yesterday and came back last night, in case there should be anything for me to do here about this bond business.

Of course, we agree with your views entirely that you need a new market, and we think this can be accomplished by dealing with Speyer. We know as

well as anybody can that the Telephone securities are as good as can be, but they have not interested the public yet, outside of New England, very much, and the company has not got the standing which it deserves and which it will have by and by. The New Yorkers are always shy of new things from this part of the country. We think Speyer can help to distribute the securities elsewhere.

As regards figures, may I call your attention to the fact that there are plenty of railroad notes of companies well known to be strong and in good hands, and these notes sell at 5% and thereabouts. The 4½% notes of the Pennsylvania road have hung fire terribly. More than that, there are plenty of railroad notes to come, as everybody knows. If the Telephone company wants money and wants a new market, it will probably have to pay for it, just as everybody does who is not well known.

It seems to me, if I were on your board, that I should vote to take money, if it were offered, in quantities enough to make the company easy and pay the price needed. It is, after all, a very small matter on short securities. Most of these railroad notes are two years, and that seems to be a good length of note; and perhaps they can be made a little longer. If the time could be left to the bankers, it would be not less than two years; it would be made longer, if it could be managed, and might give good results.

If you want me today, or if I can offer any advice of value, I am at your service.

I am speaking to you with perfect frankness, just as I have for the last thirty years to the directors of the Chicago, Burlington & Quincy Railroad Co., with whom I have had intimate relations. They were very apt to ask about the times and about what I thought with regard to this or t'other point, whether I bought a loan or not; and I always found that by treating them with entire openness and considering their problems, I got on much better. I think they recognized that fact, and I think it did them good. At any rate it was much easier for me to proceed in that way, and I can fairly say that we have dealt with no railroad in the country, in which dealings we have made less money than with the Chicago, Burlington & Quincy. We always paid them every penny we could afford for loans and not infrequently paid them too much.

I do not believe it is wise for a corporation to get the last penny on its bonds or notes. Notes cannot fall much in price; bonds can fall very heavily. If the dealers or the investors or both see bonds very heavy on the market, the next time the company wants money it is remembered and costs more than it should.

Forgive me for offering my wisdom (?) unasked, and believe me,

Yours truly,

H. L. HIGGINSON

EXHIBIT No. 1659-8

[From files of Federal Communications Commission]

MARCH 7, 1902.

Personal.

FRANCIS L. HINE, Esq.,

Vice-President, First National Bank,

2 Wall Street, New York.

MY DEAR MR. HINE:

I am now in a position to assent definitely to the proposition which I discussed the other day with Mr. Baker and yourself.

We will sell to Mr. Baker and his associates 15,000 shares of the stock of the American Telephone and Telegraph Company, at 153½, with the understanding that Mr. Baker is to have the option to take 25,000 additional shares of the stock within a few days after his return from the south, and at the same price, if he desires to do so. If he concludes that he would like to have 35,000 additional shares, rather than 25,000, I have no doubt that we shall be able to meet his views on that point.

It is our expectation to elect Mr. Baker and Mr. Waterbury to the Board of Directors of the American Telephone and Telegraph Company at the annual meeting, which will be held on March 25, 1902.

I need not repeat that we understand that it is the purchaser's intention that this stock is to be held as an investment, although, of course, no binding agreement to that effect is to be expected.

I think that I have now stated our entire understanding, and should be glad to have you confirm my statement and indicate to me when you would like to have the certificates for the 15,000 shares delivered and the names in which these shares are to be placed.

Very truly yours,

F. P. FISH, *President.*

[Source: Private Letter Book I.]

No. 29.

GEO. F. BAKER, *President.*
H. C. FAHNESTOCK, *V. Pres.*
FRANCIS L. HINE, *V. Pres.*
CHARLES H. STOUT, *V. Pres.*
C. D. BACKUS, *Cashier.*
W. G. SNOW, *Asst. Cashier.*
H. FAHNESTOCK, *Asst. Cashier.*
GEO. F. BAKER, JR., *Asst. Cashier.*

FIRST NATIONAL BANK,
New York, March 8, 1902.

F. P. FISH, Esq.

*Pres., Am. Tel. & Telegraph Co.,
Boston, Mass.*

DEAR MR. FISH: Replying to your favor of the 7th instant, I beg to hereby confirm the agreement entered into by you with Geo. F. Baker, Esq., namely, that he and his associates shall accept upon presentation by you at the First National Bank of New York, 15,000 shares of the stock of the American Telephone and Telegraph Company at 153½, and that they shall have the privilege of accepting 25,000 @ 35,000 shares additional at the same price within a few days after Mr. Baker's return from the South. Also that Mr. Baker and Mr. Waterbury shall be elected as members of the Board of Directors of the American Telephone and Telegraph Company at their meeting to be held on March 25, 1902.

As indicated over the telephone, we should be glad to have a certificate of 100 shs in name of Geo. F. Baker, 100 shs in name of John I. Waterbury, 14,800 shs in name of W. J. Nevius.

(300 shares of the latter to be in six certificates of 50 shares each).

Yours, very truly,

F. L. HINE, *V. P.*

[Source: President's file 12373.]

Source: President's file 12373.

GEO. F. BAKER, *President.*
H. C. FAHNESTOCK, *V. Pres.*
FRANCIS L. HINE, *V. Pres.*
CHARLES H. STOUT, *V. Pres.*
C. D. BACKUS, *Cashier.*
W. G. SNOW, *Asst. Cashier.*
H. FAHNESTOCK, *Asst. Cashier.*
GEO. F. BAKER, JR., *Asst. Cashier.*

FIRST NATIONAL BANK,
New York, Mch 25, 1902.

F. P. FISH, Esq.

*Pres., Am. Telephone & Telegraph Co.,
Boston, Mass.*

DEAR SIR: Referring to your letter of March 7th, I hereby accept for myself and associates the option to purchase 35,000 shares of your stock at 153½, the same to take effect this date. The arrangement for the delivery of the certificates and payment of dividends as arranged by you with Mr. Waterbury will be entirely satisfactory. Yours, truly,

GEO. F. BAKER.

EXHIBIT No. 1659-9

[From files of Federal Communications Commission]

PROPOSED PLAN OF FINANCING

Report of Messrs. Leverett, Sherwin and Driver. February 16, 1905

FREDERICK P. FISH, *President*

EDWARD J. HALL,

THOMAS SHERWIN,

C. JAY FRENCH,

*Vice Presidents*CHARLES EUSTIS HUBBARD, *Secretary*WILLIAM R. DRIVER, *Treasurer*

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

Boston, February 16th, 1905.

PLAN OF FINANCING PROPOSED BY MR. WATERBURY AND ASSOCIATES

FREDERICK P. FISH, Esq.,

DEAR SIR: In order that there may be no question as to the exact points which are discussed in this letter we will briefly summarize the plan under consideration.

A syndicate to buy—

(a) \$15,000,000 of our bonds expiring in ten years instead of 1929.

(b) \$35,000,000 four per cent bonds analogous to our present bonds convertible into stock at \$130 at any time, say, after three years and before eight years, and to run, say, twenty to twenty-five years.

(c) \$50,000,000 of the same type of convertible bonds, if we have the power to offer them, with an option on the part of the syndicate to take \$50,000,000 more of the same kind.

The \$100,000,000 which the syndicate are bound to take are to be paid in installments on fixed dates, the series of installments of the first \$50,000,000 being completed in August 1906 and of the installments of the second \$50,000,000 in December 1907, with the right to anticipate at any time payment of any part or all of the first \$50,000,000 and at any time after August 1906 payment of any part or all of the second \$50,000,000. If payments are anticipated, the syndicate, at our request, will hold the money until we want it and allow 3% interest.

Omitting the price to be paid for the bonds, this is the whole of the plan.

The distinctive and controlling feature of this plan is the issue of convertible bonds, and at the threshold of our inquiry we are met with the question of the power of this company to issue such bonds, as the indenture of July 1, 1899, under which our present collateral trust four percent bonds are issued, makes no provision for the issue of convertible bonds.

It has long been laid down by text writers, supported by numerous decisions, that in the absence of special enabling statutes authorizing a different disposition of its stock, a corporation, upon the issue of new stock, must distribute that stock pro-rata to its then existing stockholders. In other words, each stockholder, upon the issue of new stock, has the right to take a proportionate part thereof. Some cases have gone so far as to hold that the stockholders are entitled to have this new stock at par. Such is not the rule in New York, according to the recent case of *Stokes vs. Continental Trust Co.*, 91 N. Y. Sup., 239. But it would seem to be the law in that state that a stockholder is entitled to take his pro-rata share of new stock at the same price it may be offered to other stockholders or to others.

This is a general rule of law and subject to exception. For example, it would not apply in case of the purchase of specific property for stock, where the corporation is authorized to issue stock for other consideration than money; nor would it apply in the case of the conversion of bonds into stock, if the corporation is authorized to issue convertible bonds. Other cases may be imagined in which the rule would not apply.

But the rule would make strongly against the right of a corporation to issue convertible bonds unless specifically authorized, except in cases like the one mentioned below (this company having in the treasury of The American Bell

Telephone Company \$27,000,000 of its old stock which can be disposed of by our directors as they see fit).

The Stock Corporation Law, section 2, in empowering stock corporations (among them telephone companies) to issue bonds and secure the same by mortgage, requires the consent of the holders of not less than two-thirds of the capital stock of the corporation, and provides that the directors, under such regulations as they may adopt and when authorized by such consent (i. e. of the holders of two-thirds of the capital stock), may confer on the holder of any debt or obligation secured by such mortgage the right to convert the principal thereof, after two and not more than twelve years from the date of the mortgage, into stock of the corporation. This is the only New York statute upon this subject affecting this company.

The application of the above to the plan in question is not difficult. So far as the first \$35,000,000 of the bonds is concerned it would not be necessary to issue new stock in order to enable this company to perform its covenant of conversion. The \$27,000,000 of stock now held by The American Bell Telephone Company would be ample and available for the purpose. But inasmuch as further new stock would be needed to carry out the remaining features of the plan, it would hardly seem necessary to draw upon the stock held by The American Bell Telephone Company; for all the stock required could be authorized by one vote of our stockholders.

Is action by the stockholders necessary? Not for the first \$35,000,000, because the \$27,000,000 of stock needed for the purpose of conversion are within the control of the board of directors. But we are of the opinion that it would be required for the remaining issues for the reasons above given and for the further reason that such is the express requirement of the enabling Statute. The very fact that it was thought necessary to make such an enabling statute would create a presumption that such power did no otherwise exist.

We are concerned with the question of power to issue convertible bonds and not with that of policy, although it might be worth while to consider whether, if the power exists, it is expedient to issue, without consulting the stockholders, so great an amount of convertible bonds as is contemplated by the plan as a whole, with the possible attendant issue of so large a block of stock.

THE PLAN IN DETAIL

Examining the plan in detail, we find that at first an issue of \$15,000,000 of our bonds is contemplated, to run ten years instead of until 1929, the date of payment of our collateral trust four per cent bonds. Can these short term bonds be issued under the indenture of trust dated July 1, 1899? That indenture provides for the issue of bonds, all to be substantially of the tenor therein set forth, except that bonds bearing a less rate of interest than that specified in the form given in the indenture may be issued thereunder. The exception of the rate of interest would of itself indicate that all other provisions of the bond are to remain unchanged and that the time of payment can not be changed. It is at least doubtful if bonds of a shorter period can be included thereunder by agreement with the trustee, as all the bonds already issued would have an interest in the terms under which the later bonds are to be issued. If short term bonds are issued a failure to pay these bonds at maturity would be a default under which all the securities of the trust might be sold and must be sold at the request of one-fourth in interest of the bondholders. This is a radical change in the plan of the trust established by that indenture.

We take it that the \$35,000,000 of bonds required by section (b) of the plan could be our regular collateral trust four per cent bonds if desired. As stated above the directors have within their control the required amount of stock—that now in the treasury of The American Bell Telephone Company. Bonds in the regular form provided by the indenture could be issued, and appended to each bond a separate covenant on the part of the American Telephone and Telegraph Company to make the conversion. If the conversion were made, the bonds when surrendered under the terms of the conversion would come back into the possession of the American Telephone and Telegraph Company. If the instrument containing the covenant for conversion was not stamped on the bonds but made in a separate instrument appended to the bonds, it might be removed from the bonds and the bonds reissued. But it is to be noted that the amount of collateral once placed in the hands of the Old Colony Trust Company, Trustee, to secure these \$35,000,000 bonds, must always remain in its hands and cannot be withdrawn even if it be thought desirable to cancel

them. Indeed the bonds themselves must, if they are to be used, remain outstanding. New bonds cannot be substituted for them, except under the provision for mutilated bonds, in the first paragraph of the indenture.

As stated above, it would probably be found more desirable, if convertible bonds in greater amount than \$35,000,000 are to be issued, to issue them all under a new indenture instead of issuing \$35,000,000 under the indenture of July 1, 1899, and the balance under a new indenture. The indenture of July 1, 1899, as stated above, makes no provision for an issue of convertible bonds.

BUSINESS CONSIDERATIONS

There is one serious business objection to the adoption of the convertible bond feature of this plan. The bonds, when placed upon the market, being of a greater value, would to a large extent lessen the demand for our collateral trust bonds, as the market would undoubtedly give preference to the convertible bonds. This would be an important fact for those of our present bondholders who may wish to dispose of their bonds.

Undoubtedly we need not, in our policy of financing, limit ourselves to our own serious detriment in order to protect those who have heretofore purchased our previous issues of bonds, but we should bear in mind, in deciding upon a policy, that we must ourselves necessarily be in the market to sell further issues of our collateral trust bonds; because in May 1907 \$25,000,000 of these bonds will be released by the payment of the \$20,000,000 of notes for which they are now held as collateral. In July 1908 the bonds of The American Bell Telephone Company will be payable, thereby making the collateral theretofore held for such bonds available for the issue of \$10,000,000 of our collateral trust bonds. As stated above, this collateral having once been deposited with the trustee under the indenture cannot be withdrawn; and consequently this company will have \$35,000,000 of bonds which it must sell in order to avail itself of the assets deposited under that indenture.

It would, therefore, seem to be highly desirable, as a business proposition, not to issue convertible bonds if it can be avoided, as these \$35,000,000 bonds would be available in any scheme which did not require the issue of convertible bonds.

AVAILABLE ASSETS

Are we in a position to make a contract according to this plan?

The stocks and bonds which this company possesses, including what we are to receive within a short time, stand on our books at

\$143, 000, 000

Of these there have already been deposited with the Old Colony Trust Company under the indenture of July 1, 1899, (the value here stated being that at which they stand on our books)-----

66, 000, 000

Balance-----

77, 000, 000

Of this the following are not available for deposit under that indenture:

Western T. & T. Co. (because the indenture of trust does not permit the deposit of the stock of this company, as it is not a licensee)----- \$13, 000, 000

Certain stocks of struggling companies, like the Cent. N. Y., Cent. Union, N. Y. & Penn., and Ches. & Pot., which should be kept in hand for the future financing of these companies----- 7, 500, 000

20, 500, 000

Leaving a balance of-----

56, 500, 000

If a new indenture is to be prepared, there may be added to this the following:

Western T. & T. Co. preferred----- \$12, 000, 000

Real Estate----- 2, 250, 000

Long Line Construction----- 31, 000, 000

So. Bell Indebtedness, say----- 10, 000, 000

Other notes, say----- 4, 000, 000

59, 250, 000

115, 750, 000

There is, in addition to the above notes, the notes of the above mentioned struggling companies amounting to about \$10,000,000 but these notes, for the reason above stated, should, if possible, be kept within the control of this company.

In order to issue the \$100,000,000 of bonds above called for, if a margin equivalent to the margin provided for in the present indenture of trust be called for, \$133,333.33 of assets would be required therefor. The assets in hand would hardly be sufficient to furnish this amount of security, not to speak of security for the \$50,000,000 of further bonds on which the syndicate is by the plan to have an option. For this latter \$50,000,000 provision must be made with securities that will be obtained in the future. Consequently the option on this further \$50,000,000 should not be available before the expiration of several years from date.

It is to be noted in this connection that the company has cash in hand sufficient to pay all its obligations until the current Summer; that for the two years succeeding, including the payment of the \$20,000,000 of notes maturing in May 1907, the probable requirements of the company will not be much, if any in excess, of \$70,000,000; and that upon the payment of the above notes \$25,000,000 in bonds will be in hand for the future financing of the company.

RESULT OF PLAN

If, under the above plan, the bonds net this company 89 (90 with, say, 1% for expenses) and the option to take the stock is exercised at the expiration of three years from date, the transaction would be equivalent to the sale of the stock in three years at \$115.70 (that is, 89% of 130) with a payment meanwhile by this company of about $4\frac{1}{2}\%$ per annum for the money; or, to state the transaction in another way, it would be equivalent to a sale of the stock at 130 and a payment meanwhile by us of 8% per annum on the money. If the option was exercised at the end of eight years, it would be equivalent to about 5% for the money, and the rate would increase as if the option were exercised earlier. The purchaser is free to take the stock or not according to the state of the market.

CONCLUSIONS

Our conclusions are, that

(1) It would be undesirable, from a business point of view, to issue convertible bonds.

(2) In order to issue convertible bonds above \$35,000,000, consent of two-thirds of the stockholders would be required, and this would be difficult to obtain.

(3) It is much more desirable to issue bonds under the present indenture of trust, for the present needs of the company, up to, say, a total of \$100,000,000. If more than \$100,000,000 of bonds are to be issued, it might be well to consider whether it is not advisable to make an issue of bonds under another indenture of trust which would fall due at some other date, as the amount falling due in 1929 would otherwise be excessive and probably burdensome for the company to finance at one time.

(4) Short time bonds (that is to say, payable in ten years) cannot be issued under the present indenture.

(5) We doubt the expediency of financing the company for so long a period of time as the proposed plan contemplates, especially as it would have the effect of tying up our assets and of rendering more difficult the use of them in the financing, consolidation, and development of our sub-companies.

(6) In preference to the plan under consideration, we should recommend the issue this year of a limited amount of stock and bonds, say, one in ten of stock to present stockholders and \$15,000,000 in bonds to be sold to bankers. Of course it would be preferable to finance for a year or two more if a satisfactory arrangement can be made through a syndicate. A plan for marketing abroad stock or stock and bonds would be very desirable.

To our minds there is another risk in the proposed plan which should be had in mind. If a bankers syndicate should be formed under the proposed plan, who should pool their bonds or place them in trust, the trust so formed, by exercising the option given for the conversion of bonds, would have the power to acquire so near an absolute controlling interest in this company as practically to control the whole assets of the company, which they could use

for any schemes of financing that they saw fit. In short, having nearly one-half of the entire issued capital stock of the company, they could consolidate this company with other companies, or make any other arrangement in regard to its future financing that they saw fit. This is a great and extremely valuable option and is equivalent, until the bonds are distributed or sold to the public, to a surrender of the powers of management by the present officers and stockholders to a body of bankers who may work to the disadvantage of the present stockholders in the promotion of other schemes of consolidation.

We cannot see in the present condition of the company any urgency which calls for a method of financing so drastic as this plan.

Respectfully,

GEO. V. LEVERETT,
THOMAS SHERWIN,
WM. R. DRIVER.

The foregoing plan assumes that the convertible bonds to be issued thereunder will not be offered to our stockholders. We understand that it is now proposed to modify this plan by making an offer of these bonds to our stockholders. This would remove one of the serious legal objections to the plan. It would not, however, give authority to the directors to offer the Fifty Millions, on which it is proposed to give the syndicate an option, that is to say, the third Fifty Millions of the plan, because there is not sufficient stock at the disposal of the directors to make such a contract. All of the other objections to the plan as stated in the foregoing opinion still subsist. In addition, if say, One Hundred Millions were to be offered to our stockholders at one time the question of the good faith of the offer would be at once raised, inasmuch as it couldn't be fairly expected that our stockholders would be in a position to take so large a block at once.

Respectfully,

GEO. V. LEVERETT,
THOMAS SHERWIN,
WM. R. DRIVER.

[Source: President's file 17614.]

EXHIBIT No. 1659-10

[From files of Federal Communications Commission]

FEBRUARY 15, 1905.

Messrs. J. P. MORGAN & Co.,
Broad and Wall Streets, New York City.

DEAR SIR: We find so many practical and technical difficulties in the scheme suggested in our conference last Friday, that it will be some time before we shall be in a position to take the matter up on its merits. Absolutely no time will be lost in making such investigations as are necessary to a proper consideration of the plan.

I shall hope to call on Mr. Steele some time Friday, to talk with him a few minutes about some of the legal difficulties.

Very truly yours,

F. P. FISH, *President.*

[Source: Private Letter Book IV.]

EXHIBIT No. 1659-11

[From files of Federal Communications Commission]

(Handwritten:) P. F. File. 6/3/08. A. M.

UNITED STATES SENATE,
Washington, Feb. 15, 1905.

Private

DEAR MR. FISH: I am beginning to think that we ought to raise the necessary money by the sale of four per cent collateral bonds without the conversion clause. We surely can find some one who will buy them at a reasonable price. The other proposition is intricate and uncertain, and might lead to a great deal of trouble. I write you about it now, thinking that you might want to intimate to the people

in New York that some of your people do not look with favor on their plan, but of course do as you think best about this.

If you wish to talk with me on the telephone you can call me up at the Senate any time after 11 o'clock tomorrow or Friday, and at the Arlington Hotel previous to that or in the evening.

Very sincerely yours,

W. M. CRANE.

Mr. F. P. FISH,
15 Dey Street, New York, N. Y.

EXHIBIT No. 1659-12

[From files of Federal Communications Commission]

FEBRUARY 20, 1905.

JOHN I. WATERBURY, Esq.,
Manhattan Trust Company, Wall & Nassau Streets, New York City.

MY DEAR MR. WATERBURY: Knowing the deep interest you have in securing an arrangement by which our financial matters may be adjusted for a long time, I regret to say that the Executive Committee has determined that it is not wise for us to consider at present the comprehensive scheme of financing submitted to us by Messrs. J. P. Morgan & Company and Messrs. Kidder, Peabody & Company at our recent interview. I have so notified those two firms.

There are certain practical and legal difficulties in the way of dealing with the matter on broad lines at the present time which may ultimately be eliminated but which now seem to us controlling.

We are submitting to a number of banking houses which have expressed an interest in our securities a memorandum copy of which I enclose.

Very truly yours,

F. P. FISH, *President.*

(Enclosure)

[Source: Private Letter Book IV.]

FEBRUARY 20, 1905.

MESSRS. J. P. MORGAN & Co.,
Broad and Wall Streets, New York City.

DEAR SIR: Our Executive Committee has given careful consideration to the proposition which you and your associates made to us a week ago last Saturday for the purchase from our Company of certain securities to be issued by it.

The Committee has decided that at the present time it is not expedient for the Company to enter into such a comprehensive scheme of financing as that suggested, on the lines proposed.

Thanking you for the pains you have taken in this matter, I remain,

Very truly yours,

F. P. FISH, *President.*

[Source: Private Letter Book IV.]

FEBRUARY 20, 1905.

GEORGE F. BAKER, Esq.,
*First National Bank,
4 Wall Street, New York City.*

MY DEAR MR. BAKER: After most careful consideration our Executive Committee has determined that we can not take up at present negotiations on the lines suggested by Messrs. J. P. Morgan & Company and Messrs. Kidder, Peabody & Company at our recent interview. There are practical and legal difficulties in the way which seem to us, for a time at least, to be controlling.

I enclose a copy of a memorandum that we are submitting to a number of banking houses which have intimated a desire to consider any issue of securities that we might make about this time.

I shall hope to see you in New York at an early date.

Very truly yours,

F. P. FISH,
President.

(Enclosure)

[Source: Private Letter Book IV.]

EXHIBIT No. 1659-13

[From files of Federal Communications Commission]

AUG. 14, 1905.

DEAR MR. WINSOR: In view of my understanding with my Executive Committee that the entire financial question should go over until fall, I am not sure that I am at liberty to go so far into the facts and figures with you as you would like, as per your suggestion at the Exchange Club today. At any rate, I shall have to bring the question before my Committee.

You will remember that I said, after my return from California, that I saw no reason why you and I should not talk over your general plan or thought on the subject (provided we could do so without prejudice or any danger of incurring the slightest obligation) for such preliminary consideration would make the work in the fall, if we take it up, more easy. Dealing with the "facts and figures" as you suggest would go far towards instituting negotiations and a possible approach to a committal. This, of course, must be avoided.

If you feel that you can not tell me the general nature of your plan, without going into the figures, it seems to me most probable that everything will have to go over till fall, as I doubt if my Committee would support me in taking action now, which might be inconsistent with our conclusion to do nothing at present. I should have said all this to you this noon but my mind did not work quickly enough.

Sincerely yours,

(Signed) F. P. FISH.

ROBERT WINSOR, Esq.

[Source: Private Letter Book IV.]

EXHIBIT No. 1659-14

[From files of Federal Communications Commission]

WALL STREET, CORNER NASSAU, NEW YORK,
November 21st, 1905.

DEAR MR. FISH: If you will pardon a running comment which occurs to Mr. Baker and myself after reading over the proposed circular to the stockholders, you will, I think, have a better notion as to how we are impressed in our efforts to judge of the draft from the point of view of the stockholder, who, after all, is the person we desire to reach.

The statement as to the business and operations of the Company might, we think, be followed by the further statement that the companies are gaining in those portions of the country in which they have continuously prospered etc. etc., omitting any reference to conditions which are generally known to exist.

This followed by a description of the company's investments and advances, and by the statement that in order to meet the continual increasing demands for a comprehensive and national service such as only this company can give, requires constant development of facilities and further outlay.

A statement of the present amount of the issued capital upon which dividends are paid, and a short table which will show at a glance the outstanding bonds and debenture notes of all kinds, including The American Bell Telephone Company's bonds.

The increased requirements of the company have heretofore been met by issues of stock or of debentures, or by the issue of debenture notes.

The development of the company has now reached a stage when the Directors believe that the interests of the stockholders will be best conserved by authorizing another form of security that will enable the company to negotiate advantageously for additional moneys that are required to meet the enormously increasing business of the company, so that it may be prepared to meet market conditions as they occur, and provide for financing the Company for an extended period should it be found practicable to do so.

The Directors believe that in addition to the right to secure money by the further issue of stock and of its four per cent. collateral bonds, they should be authorized to negotiate for the issue and sale of convertible bonds as the money for the necessary development of the business could probably be obtained at a better rate than if the Company was confined to the forms of financing to which it has heretofore been limited.

While the present financial condition of the Company is sufficient for all its purposes until well into 1963, the Directors nevertheless are of the opinion that action should be taken upon the recommendation in order that the stockholders may derive every advantage in securing money for the future purposes of the Company.

I trust we have met your request as desired, and that if we can be of further service you will not hesitate to command us.

Yours faithfully,

JOHN I. WATERBURY.

F. P. FISH, Esq.,
Pres't. Amer. Tel. & Tel. Co., Boston, Mass.

(Enclosure.)

[Source: President's file 15941.]

EXHIBIT No. 1659-15

[From files of Federal Communications Commission]

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, stockholder in the American Telephone and Telegraph Company, does hereby constitute and appoint Alexander Cochrane, Nathaniel Thayer, John I. Waterbury and William R. Driver, attorneys of the undersigned, with power of substitution to each, for and in the name of the undersigned to vote upon all stock of the undersigned in the American Telephone and Telegraph Company at the special meeting of the stockholders of said Company to be held on Thursday, the twenty-first day of December, 1905, for the purpose of acting upon the question of authorizing the issue of convertible bonds, and at any adjournment of said meeting, with all the powers the undersigned would possess if personally present. A majority of such of said attorneys as shall be present and shall act at the meeting (or if only one shall be present and act, then that one) shall have and may exercise all of the powers of all of said attorneys hereunder.

DECEMBER 1905.

[From files of Federal Communications Commission]

AMERICAN TELEPHONE AND TELEGRAPH COMPANY,
No. 15 Dey Street, New York, March 12, 1901.

Enclosed please find notice of the Annual Meeting of the Stockholders of this Company.

It is important that your stock be represented at this meeting, in order that the presence of a quorum may be ensured.

A blank form of proxy is enclosed, which, if you cannot be present in person, you are requested to sign and send to some one in your confidence for use, or to William R. Driver, 125 Milk Street, Boston, if that be more convenient. If sent to Mr. Driver, the proper United States Internal Revenue stamp will be affixed and duly cancelled by him.

A stamped envelope is enclosed for use, if you choose to send the proxy here.

CHARLES EUSTIS HUBBARD, *Secretary.*

[Subject File No. 012.11. Treas. Dept. A. T. & T. Co., Inv. C. Augat.]

[Subject File No. 012, Treasury Dept. A. T. & T. Co., Inv. C. Augat.]

KNOW ALL MEN BY THESE PRESENTS, That I, the undersigned Stockholder in the AMERICAN TELEPHONE AND TELEGRAPH COMPANY, do hereby appoint----- true and lawful Attorney, with power of substitution, for me and in my name to vote at the Annual Meeting of the stockholders in said Company, to be held in New York, March 26, 1901, or at any adjournment thereof with all the powers I should possess if personally present.

March -----, 1901.

EXHIBIT No. 1659-16

[From files of American Telephone and Telegraph Company]

DECEMBER 6, 1905.
P. F. 15923

Personal

CHARLES H. DAVIS, Esq.,
25 Broad Street, New York City.

MY DEAR MR. DAVIS: Your letter of December 5 comes to hand today. I am very glad to hear from you and if you care to call on me in New York next Tuesday at my office 15 Dey Street, I should like to talk the situation over with you.

It does not seem to me wise at the present time that we should commit ourselves to offering to the stockholders any convertible bonds that may be issued, for the market conditions might be such that the most desirable trade possible for the Company and the stockholders would be one that could not give the stockholders the opportunity to subscribe for the bonds.

My own belief however is that if we ever issue such bonds, the conditions are likely to be such that an offer to the stockholders would be wise and proper.

Of course you understand that we have no plans for financing at the present time and there are no negotiations whatever looking to the sale or issue of such bonds. We simply concluded that it would help the Company very much to have this form of financing open to it and therefore the Directors ask for the requisite authority.

Very truly yours,

F. P. FISHER, *President.*AMERICAN TELEPHONE AND TELEGRAPH COMPANY, SPECIAL MEETING OF
STOCKHOLDERS, DECEMBER 21, 1905

Dec. 21, 1905.

"*Resolved*, That the Directors be and they are hereby authorized to issue from time to time, when and as it may be necessary, for the transaction of the business of the Company, or for the exercise of its corporate rights, privileges, or franchises, or for any other lawful purpose of its incorporation, convertible bonds of the Company, not exceeding, in the aggregate, one hundred and fifty million dollars (\$150,000,000) in such denominations, at such rate of interest and for such periods of time as they may determine, and they are hereby authorized to confer upon the holders of such bonds the right to convert the principal thereof, after two and not more than twelve years from the date of such bonds, into stock of the corporation at such rate, not less than par, as the Directors may fix, and under such regulations as they may adopt."

EXHIBIT No. 1659-17

[From files of Federal Communications Commission]

DECEMBER 15, 1905.

Personal.

W. L. PUTNAM, Esq.,
60 State Street, Boston.

MY DEAR MR. PUTNAM: I trust that we are to have the support of the Lowell stock at the special stockholders' meeting in New York. I write this because I observe that the proxy has not yet come in.

The proxies generally are coming in, and the more I think the matter over, and the more I hear of the views of those whose opinion is of value, the more thoroughly satisfied I am that the Directors should have the power for which they ask.

Very truly yours,

F. P. FISHER, *President.*

[Source: President's Letter Book 41.]

DECEMBER 15, 1905.

P. F. 15,961

" 15,988

GEORGE BARCLAY MOFFAT, Esq.,
5 Nassau Street, New York City

MY DEAR MR. MOFFAT: I regret extremely that I was unable to see you in New York this week, as I intended. I had so much to do that was unexpected that I did not have the opportunity to communicate with you.

I sincerely hope that we are to have your support in getting, at our meeting next Thursday, the power to issue convertible bonds.

The matter has received most careful consideration, and we are all satisfied that if this additional authority is given to the Directors it will be to the advantage of the stockholders and the Company.

I am not able at this moment to put my hand on the letter from you which I received a few days ago, and I should thank you very much if you would write me again upon receipt of this, telling me exactly what is your attitude and giving me the opportunity of writing you at greater length if you are not entirely satisfied to advise those with whom you come in contact to act affirmatively with reference to the proposition that will come before the meeting.

Very truly yours,

F. P. FISH, *President.*

(Handwritten.) Gov. Crane is trying to see you this afternoon or tomorrow morning to talk the matter over with you.

[Source: President's Letter Book 41.]

Mr. FISH: Mr. Driver telephoned from New York just now (11:55 A. M.) to say that Marsden J. Perry had not sent in his proxy (3,750 shares), and that Francis A. Cranston, Providence, had withdrawn his (1,200 shares). As this last seems to indicate a change of mind you may want to take notice of it.

G. D. M.

December 15, 1905.

[Source: President's file 15947.]

DECEMBER 15, 1905.

P. F. 15,947

MARSDEN J. PERRY, Esq.,
Providence, R. I.

MY DEAR MR. PERRY: I trust that you are in favor of giving the Directors of the Company, the power to issue convertible bonds, and that you will either be present at the meeting or send us your proxy.

If you have any doubt as to the advisability of having the Directors in a position where they can negotiate for the issue of convertible bonds, I shall be glad if you will do me the favor to give me a chance to talk the matter over with you.

Mr. Francis A. Cranston, of Providence, who sent in his proxy, has withdrawn it. I should be very sorry if this meant that he disapproved of the plan.

Perhaps you will take the trouble to call me on the telephone at your convenience.

The proxies are coming in well, and, as far as I can judge, those whose opinion I most value believe with me that the Directors should have the power to negotiate for the issue of convertible bonds if conditions are favorable to that sort of security.

Very truly yours,

F. P. FISH, *President.*

[Source: President's Letter Book 41.]

(Stamped:) Received Dec. 19, 1905 A. B. T. Co.

AMERICAN TELEPHONE AND TELEGRAPH COMPANY,
No. 15 Day Street, New York, N. Y., Dec. 16, 1905.

Mr. JOSEPH S. FAY, JR.,
31 State St., Rm. 406, Boston, Mass.

DEAR SIR: For the purpose of the special meeting of stockholders called for Thursday, December 21st, it is necessary that two thirds of the capital stock should act.

Your proxy has not been received.

If the proposition meets your approval, and if you do not expect to be present at the meeting, will you kindly execute and return the accompanying proxy?

As the time is short, I shall be glad if you can find it convenient to give this your early attention. (Handwritten:) 5440 Shrs.

Respectfully yours,

F. P. FISH, *President*.

(Handwritten:)

DEAR SIR: I do not approve of the proposed issue because in the Resolution of the Directors they fail to state that the bonds shall first be offered to the stockholders. I consider this very important so shall not send proxy.

Yours truly,

J. S. FAY, JR.

(Handwritten:) 15947 Dec. 18, 1905. L. B. 41/372. See L. B. 41/338.

MARSDEN J. PERRY

UNION TRUST COMPANY BUILDING

PROVIDENCE, R. I., *December 16, 1905.*

DEAR MR. FISH: I most heartily endorse your plan for the issue of convertible bonds, and supposed I had executed and sent my proxy long ago, but on my return from New York I find your letter, and the only inference is that I have neglected my "plain duty". I, unfortunately, have no influence with Mr. Cranston, or I would volunteer to see him and attempt to secure his proxy, but there are, you know, some men to whom success, even in a moderate degree is an offence.

Faithfully yours,

MARSDEN J. PERRY.

One enclosure.

(Handwritten:) File

OFFICE OF SETH LOW

30 East 64th Street, New York

DECEMBER 18th, 1905.

DEAR SIR: I have received a second copy of the circular of your Company, dated November 29th, 1905, and a second request for my proxy, to be used at the meeting of the Company to be held on the 21st inst. I am not sending my proxy, for the reason that I do not believe in the plan proposed.

Yours, very truly,

SETH LOW.

F. B. FISH, Esq.,

President of the American Telephone & Telegraph Co.,

15 Dey Street, New York City.

EXHIBIT No. 1659-13

[From files of American Telephone and Telegraph Company]

JANUARY 27, 1906.

P. F. 16078

WILLIAM SALOMON, Esq.,

Messrs. William Salomon & Co., 25 Broad Street, New York.

MY DEAR MR. SALOMON: I was out of town when your telegram was received.

Nothing has been done as yet, but the conditions are such that I must be very careful in all cases not to give any encouragement to any parties in the matter referred to.

I very much appreciate your continued interest in our financial affairs, and it would give me great pleasure to be in a position to utilize your very efficient organization and capacity; but there are innumerable considerations that must be taken into account, and it is entirely impossible for me to say what can or can not be done.

Thanking you for your telegram, I remain,

Very truly yours,

F. P. FISH, *President*.

[Source: President's Letter Book 42.]

(Handwritten:) 16078. Jan. 30, 1906. LB 42/95. See LB 42/35, 38.

(Handwritten:) File 6/3/08 A. A. M.

WILLIAM SALOMON & Co.

BANKERS

25 Broad Street New York

JAN. 29, 1906.

Mr. F. P. FISH,

President, American Telephone & Telegraph Co., Boston.

DEAR SIR: I beg to confirm telegrams exchanged between us and receipt this morning of your kind letter of January 27th, for which accept my best thanks.

I shall be much obliged if you will let me know whether you are going to be in New York within the next few days, so that I might have an interview with you; or if you are not going to be here, whether you would permit me to send one of my partners to Boston to have a talk with you in respect to the matter referred to.

I understand from your telegram and letter that the matter is still open, and I would like to learn whether it may be possible to allow me to make for myself, associated with a satisfactory group, a competitive offer. Your policy has always been that of allowing competitive tenders to be made and I do not understand from your letter that it is your intention to follow a different policy in this instance.

I am

Yours truly,

W. SALOMON.

S. B.

JANUARY 30, 1906.

P. F. 16078

WILLIAM SALOMON, Esq.,

Messrs. William Salomon & Co., 25 Broad Street, New York.

MY DEAR MR. SALOMON: Your letter of January 29 comes to hand this morning.

I shall be in New York early next week—probably Tuesday—and should of course be glad to see you, or any representative of yours at any time.

As you assume, the matter is still open, but I am not at present in a position to state whether or not we shall be in a position to allow competitive tenders, as has been the case heretofore.

In former years I should have given the same answer up to the time when our policy was determined for the particular case, for I am satisfied that each time you must deal with the existing situation on its merits.

While, therefore, I should be very glad to talk the matter over with your representative, I should feel bound to refrain from committing myself in the slightest degree to any policy, until the time comes for action, when I shall be forced to adopt and adhere to some definite position.

I greatly appreciate your willingness to participate in our financial arrangements, and it would give me great pleasure to deal with your firm if matters took such a turn as to make it possible so to do. You undoubtedly recognize the complexities of my position, and I trust that you understand that all that I am saying is said in the most friendly spirit, but in view of the necessities of our business situation.

Very truly yours,

F. P. FISH, *President*

[Source: President's Letter Book 42.]

EXHIBIT No. 1659-19

[From files of American Telephone and Telegraph Company]

DECEMBER 16, 1905.

P. F. 15922

EDGAR SPEYER, Esq.,

Lothbury, London, England.

MY DEAR MR. SPEYER: I was very glad to receive your cablegram and to know that you are of the same mind as when I had the pleasure of talking with you last September.

Nothing can be or will be done in the way of financing, at any rate for a few weeks. I should be only too glad if, when the time came, it were possible to take the matter up on exactly the lines referred to in your cablegram. You will understand, however, that it may not be in our power to do this.

Meanwhile, nothing is being done, and the whole question is open for such action as shall seem best and most expedient.

Thanking you for communicating with me on the subject, I remain,

Very truly yours,

F. P. FISH, *President.*

(Handwritten :) P. F. File. 6/3/08. A. A. M.

WASHINGTON, D. C.,
January 27, 1906.

Personal.

Mr. F. P. FISH,

125 Milk Street, Boston.

DEAR MR. FISH:—Mr. Storow called on me at the hotel last evening. From what he said I judged that he and his friends would be quite well satisfied with a two-thirds interest in the proposed syndicate providing Mr. Morgan would withdraw his objections to Mr. Speyer. I presume that he will make this known to you when he sees you. That being the case, Mr. Winsor ought to be able to induce Mr. Morgan to withdraw his objections. I will call you on the telephone Tuesday.

Sincerely yours,

W. M. CRANE.

(Handwritten :) File. 6/3/08. A. A. M.

S—Mc

LEE, HIGGINSON & COMPANY,
44 State Street, Boston, February 1, 1906.

FREDERICK P. FISH, Esq.,

President, American Telephone & Telegraph Co.,

119 Milk Street, Boston, Mass.

DEAR SIR: In order that there may be no misunderstanding about our position, I beg to say that, representing a syndicate formed by Messrs. Speyer & Co. of New York and ourselves, we would be glad to have an opportunity to bid on such new securities as the Telephone Company may contemplate issuing.

At present, we do not know sufficient details as to the character of the securities and the amount to be issued, to formulate an offer.

If the Company should desire us to consider the characteristics to be given the new securities, and to advise the Company as to our opinion, either with or without a bid, we shall be glad to do this.

If we should purchase an issue of securities from you, we should make an especial effort to interest European investors; and perhaps it may be of interest to you to know that we should have directly associated with us, and prepared to join with us in offering the securities abroad, among others, the following banking interests:

England (London): Speyer Brothers.

Holland (Amsterdam): Teixeira de Mattos Brothers.

North Germany (Berlin): Deutsche Bank.

South Germany (Frankfort-on-Main): Lazard Speyer-Ellissen.

We are ready to make an offer for these securities on short notice, if we are put in a position by the Company to do so.

Very truly yours,

LEE, HIGGINSON & Co.

EXHIBIT No. 1659-20

THIS AGREEMENT, made this 8th day of February, 1906, between the American Telephone and Telegraph Company, a corporation of the State of New York

(hereinafter called the Company), party of the first part, and J. P. Morgan & Company, Kuhn, Loeb & Company, Kidder, Peabody & Company and Baring Brothers & Company, Limited, (hereinafter called the Bankers), of the second part,

WITNESSETH:

The Company is about to make an issue of bonds amounting to one hundred and fifty millions dollars, dated March 1, 1906, payable to bearer, or if registered to the registered holder at the office or agency of the Company in New York, New York, or Boston, Massachusetts, in gold coin of the United States of America, of the present standard of weight and fineness, on the first day of March, 1936, with interest at the rate of four per centum per annum, payable at either of the offices or agencies aforesaid in like gold coin, semi-annually on the first days of March and September in each year, to the holders of the coupons thereto annexed, on presentation and surrender thereof; which bonds are to be convertible at the option of the holder into common stock of the Company at any time after three years and within twelve years from the date thereof at the rate of one share of stock for \$140 of the principal of such bonds under suitable conditions. The bonds are to contain a provision that in case the Company shall at any time before the expiration of the period of convertibility issue, sell or permit to be sold, any stock in addition to the present stock outstanding in the hands of the public (amounting to \$131,551,400) except in exchange for convertible bonds, the rate of conversion thereafter shall be determined by adding to the sum representing the value of said \$131,551,400 of stock at \$140. per share, the sums actually received in cash for all such additional stock issued or sold, not including stock issued for convertible bonds, and dividing the aggregate of such sums by the said 1,315,514 shares of present outstanding common stock, increased by the number of shares of such additional stock issued or sold, exclusive of the stock issued for convertible bonds. Both principal and interest of said bonds shall be payable without deduction for any tax or taxes which may be imposed by the laws of the United States of America, or of any State, county or municipality therein, and which the Company may be required to pay or deduct therefrom.

They are to contain a further provision that they may be redeemable by the Company at any time after eight years from the date thereof at 105 per cent. and accrued interest, on giving notice of such intention to redeem by publication thereof for twelve weeks in two newspapers of the City of New York and the City of Boston, Massachusetts, and also in London, and, if requested by the Bankers, in two Continental centres. They shall be redeemable in whole, or from time to time in part, and if in part the bonds to be redeemed shall be drawn by lot in the usual manner.

Whenever such right to redeem shall be exercised the holder of the bonds to be redeemed shall have the privilege of converting the same in accordance with the terms of the bonds at any time (not later than March 1, 1918) up to thirty days before the day of redemption.

The bonds are to contain a provision for the registration of the principal thereof, in New York City and Boston, Massachusetts, and for the certification thereof, by some Trust Company; and a provision relieving the officers, directors and stockholders of the Company from any liability of any kind with respect thereto.

It is therefore agreed by and between the parties hereto as follows:

FIRST. The Company agrees to sell to the Bankers, and the Bankers agree to purchase from the Company, One hundred million dollars of such issue at the price of 95 and accrued interest; less a commission of $2\frac{1}{2}$ per cent. on the par value of said bonds, said bonds to be taken and paid for as follows:

Bonds of the par value of \$10,000,000 on each of the following dates: April 15th, 1906, July 15th, 1906, October 15th, 1906, January 15th, 1907; bonds of the par value of \$30,000,000 on April 15th, 1907; and bonds of the par value of \$10,000,000 on the following dates: July 15th, 1907, October 15th, 1907, January 15th, 1908.

The Bankers are to have the right to demand the delivery of said \$100,000,000 of bonds in any sums prior to the date or dates so specified, on paying therefor the purchase price.

If the engraving and printing of said bonds shall not have been completed before the day of delivery, receipts shall be issued therefor as a temporary substitute.

SECOND. In consideration of said agreement of purchase, the Bankers shall have the option to purchase the balance of said issue, amounting to \$50,000,000,

until October 1st, 1908, at 98½ and accrued interest, less a commission of 2½ per cent. upon the par value of the bonds, but in the event of the exercise of such option prior to January 2nd, 1908, the said bonds shall not be delivered until that day.

THIRD. The Company shall not issue any unsecured bonds or notes in addition to said issue of convertible bonds (except obligations payable in less than one year and to an aggregate amount not exceeding \$10,000,000), unless there be paid into the treasury of the Company additional money from the sale of stock, in which case the Company may issue additional unsecured bonds or notes to an amount equal to the money so paid into the treasury of the Company. This provision shall be included in the bonds if the Bankers so elect.

FOURTH. If the Company shall hereafter execute any mortgage on its property and franchise, or any new collateral trust indenture covering collateral now owned by the Company or acquired with the proceeds of said bonds, it shall provide for the security of the convertible bonds herein provided for on equal terms with any other obligations secured thereby; but this shall not prevent the issue of collateral trust four per cent. bonds, under the present indenture securing them, to the amount now permitted thereby in view of the amount of collateral already deposited.

FIFTH. If at any time ninety-five per cent. of said bonds shall have been redeemed or converted, the restrictions of the two preceding paragraphs of this agreement shall cease to be operative.

SIXTH. The liability hereunder of each of said four firms of bankers shall be limited to one-third of the aggregate obligations of the Bankers.

SEVENTH. The said bonds and the trust indenture, as to their form and legality, shall be subject to the approval of the counsel of the respective parties.

Dated, February 8th, 1906.

AMERICAN TELEPHONE & TELEGRAPH COMPANY,
By F. P. FISH, *President*.
J. P. MORGAN & Co.
KUHIN, LOEB & Co.
KIDDER PEABODY & Co.
BARING BROTHERS & Co., LTD.
by KIDDER PEABODY & Co.

FEBRUARY 13, 1906.

MESSRS: J. P. MORGAN & COMPANY,
KUHIN, LOEB & COMPANY,
KIDDER, PEABODY & COMPANY,
BARING BROTHERS & COMPANY, LIMITED.

GENTLEMEN: Referring to the agreement dated February 8, 1906, between this Company and yourselves, touching the issue by this Company of Thirty-Year Convertible Four Per Cent Gold Bonds, dated March 1, 1906, and amounting to \$150,000,000, I understand that you have agreed that article Third of said agreement shall be modified to read as follows:

"THIRD, During the term of said bonds the Company shall not have outstanding at any one time unsecured bonds or notes in excess of \$150,000,000 (except obligations payable in less than one year and to an aggregate amount not exceeding \$10,000,000), unless there be paid into the treasury of the Company additional money from the sale of stock, in which case the Company may issue additional unsecured bonds or notes to an amount equal to the money so paid into the treasury of the Company. This provision shall be included in the bonds, if the Bankers so elect."

Will you kindly write me a letter confirming your agreement.

Very truly yours,

F. P. FISH, *President*.

NEW YORK, Feb. 13, 1906.

The AMERICAN TELEPHONE & TELEGRAPH COMPANY.

DEAR SIR: Referring to your favor of even date herewith, we accept the modification therein proposed of our contract of February 8th, 1906, so that Paragraph Third of said contract shall read as follows:

"During the term of said bonds the Company shall not have outstanding at any time unsecured bonds or notes in excess of \$150,000,000 (except obligations

payable in less than one year and to an aggregate amount not exceeding \$10,000,000), unless there be paid into the treasury of the Company additional money from the sale of stock, in which case the Company may issue additional unsecured bonds or notes to an amount equal to the money so paid into the treasury of the Company.

"This provision shall be included in the bonds if the Bankers so elect."

Yours truly,

J. P. MORGAN & Co.,
 KUHN, LOEB & Co.,
 KIDDER, PEABODY & Co.,
 BARING BROTHERS & Co., LTD.,
 By KIDDER, PEABODY & Co.

EXHIBIT No. 1659-21

AMERICAN TELEPHONE & TELEGRAPH COMPANY—CONVERTIBLE BONDS SYNDICATE

Referring to the Agreement between the undersigned and the American Telephone & Telegraph Company, dated February 8th, 1906, providing for the purchase from that Company of \$100,000,000 face value of Four per cent. Convertible Gold Bonds and for an option upon \$50,000,000 additional of such bonds, it is agreed between the undersigned that the business under said agreement is divided in the following proportions:

J. P. Morgan & Co., Twenty-five (25) per cent.

J. S. Morgan & Co., Five (5) per cent.

Kuhn, Loeb & Co., Twenty-two and one-half (22½) per cent.

Kidder, Peabody & Co., Twenty-five (25) per cent.

Baring Brothers & Co., Limited, Twenty-two and one-half (22½) per cent.

Dated, New York, February 14, 1906.

J. P. MORGAN & Co.,
 KUHN, LOEB & Co.,
 KIDDER, PEABODY & Co.,
 BARING BROTHERS & Co., LTD.,
 By KIDDER, PEABODY & Co., *Atty's in fact.*

(Handwritten:) Accepted. J. S. Morgan & Co.

EXHIBIT No. 1659-22

[From files of Federal Communications Commission]

APPENDIX 10

AMERICAN TELEPHONE & TELEGRAPH COMPANY CONVERTIBLE FOUR PER CENT GOLD BONDS SYNDICATE AGREEMENT FEBRUARY 15, 1906.

J. P. Morgan & Co., Kuhn, Loeb & Co., New York; Kidder, Peabody & Co., Boston; Baring Brothers & Company (Limited), London.

AGREEMENT, made the fifteenth day of February, 1906, by and between J. P. MORGAN & COMPANY, KUHN, LOEB & COMPANY, KIDDER, PEABODY & COMPANY and BARING BROTHERS & COMPANY, Limited (hereinafter collectively called the "Bankers"), parties of the first part, and THE SUBSCRIBERS HERETO (hereinafter called, severally, "Subscribers," and, collectively, the "Syndicate"), parties of the second part:

WHEREAS, The American Telephone & Telegraph Company (hereinafter called the "Company") has made with the Bankers an agreement, whereby, among other things, the Company is to sell, and the Bankers are to purchase, upon the terms in said agreement provided, one hundred million dollars (\$100,000,000) face value of Convertible Four Per Cent. Gold Bonds of the Company of the issue described in the statement of the Company, dated February 12, 1906, of which a copy is annexed hereto; and

WHEREAS, the Subscribers desire to form a syndicate to purchase said bonds from the Bankers at 94½ per cent. of their face value together with accrued

interest, said bonds to be paid for on the following dates, with the right to anticipate any of the payments, viz.:

\$10,000,000	bonds on	April 5, 1906,
\$10,000,000	"	July 5, 1906,
\$10,000,000	"	October 5, 1906,
\$10,000,000	"	January 5, 1907,
\$30,000,000	"	April 5, 1907,
\$10,000,000	"	July 5, 1907,
\$10,000,000	"	October 5, 1907,
\$10,000,000	"	January 5, 1908.

Now, THEREFORE, in consideration of the premises and of their mutual promises, the parties hereto agree and the Subscribers severally agree, each with the others, and with the Bankers, as follows:

I. Each Subscriber shall indicate in his subscription hereto the total amount face value of convertible bonds for the purchase of which he is or shall be bound on account of the maximum Syndicate obligation to purchase \$100,000,000 face value of convertible bonds at 94½ per cent. of their face value and accrued interest; and, to the extent of the purchase price of the bonds so indicated in his subscription, each Subscriber will make to the Bankers cash payment for the purposes herein indicated, when and as called for by the Bankers, without reference to the receipt or the possession by the Bankers or by the Subscribers of any of the said convertible bonds. The several Subscribers shall be called upon to make payments of cash, in respect of their several subscriptions, only ratably according to the several amounts thereof, but to the full extent of his own undertaking each Subscriber shall be so responsible regardless of performance or non-performance by any other Subscriber. In the same proportion each Subscriber shall be entitled to share in the benefits, and shall bear any loss, resulting to the Syndicate under this agreement, except as otherwise herein provided. Nothing in this agreement contained shall constitute the parties hereto partners, or shall render any of the Subscribers liable to contribute more than the amount of his subscription. Originals hereof shall be signed by the Bankers and retained by them, but counterparts may be signed by the Subscribers, and all shall be taken and deemed one original instrument.

II. In the same manner as other Subscribers, the Bankers may severally become Subscribers hereto; and, as such Subscribers, they shall be liable for all subscriptions by them made, and in all respects entitled to the same rights and benefits as any other Subscriber. The Bankers may severally purchase or be interested in the purchase of any of the convertible bonds herein mentioned, and may deal with the Syndicate in the same manner as other persons. Any Subscriber hereto may, on his own account, make any agreement with any other Subscriber or with any other person, syndicate or corporation. This agreement shall bind and benefit ratably, not only the parties hereto, but their respective successors, survivors, assigns, executors and administrators. All rights and powers of J. P. Morgan & Co., of Kuhn, Loeb & Co. and of Kidder, Peabody & Co. hereunder shall vest in the copartnership firms now bearing those names, respectively, and in the successors thereof as from time to time constituted, without further act or assignment. Any of said Bankers may delegate any of their powers and authority under this agreement to any of the other Bankers. Nothing herein contained shall be construed as creating any trust or obligation whatsoever in favor of any person or corporation other than the Subscribers, nor any obligation in favor of the Subscribers except as herein expressly provided. The term "convertible bonds" whensoever herein used shall be deemed to include receipts or certificates issued for payments on account of the purchase price of such bonds.

III. Each Subscriber in his subscription hereto shall give an address, to which notices, calls or other communications may be sent; and any notice, call or other communication addressed to any Subscriber at the address so given, and either left at such address or mailed, shall be deemed actually given to such Subscriber, and shall be sufficient for all the purposes hereof. If any Subscriber shall fail so to furnish his address to the Bankers, he shall not be entitled to any notice of calls, or any other notice hereunder, and he shall be deemed to assent to any action of the Bankers. The Bankers may issue to the several Subscribers receipts in respect of payments made hereunder, of such tenor and form as they may deem suitable. Such receipts, and all rights and obli-

gations hereunder of the respective Subscribers may be made transferable in such manner and on such terms and conditions as the Bankers may prescribe; but no transfer hereunder shall be valid unless assented to in writing by the Bankers, and, unless otherwise expressly provided in such assent, the transferor shall continue liable for the payment of the unpaid part of the transferred subscription until the same shall be fully paid.

IV. The Bankers, in their discretion, may release any Subscriber. In case any Subscriber shall fail to perform any of his undertakings hereunder, or shall be released by the Bankers, other Subscribers may be received to take the share of the Subscriber so failing to perform his undertakings or so released. In case of the failure of any Subscriber or his transferee to perform any of his undertakings hereunder as and when called for by them, the Bankers, on behalf of themselves and of the Syndicate shall have, and at their sole and exclusive option may exercise, the right to exclude such Subscriber or his transferee from all interest in or under the Syndicate; and, in their discretion, without any proceedings either at law or in equity, in such manner and on such terms as they shall deem expedient, they may, for the benefit of the Syndicate, dispose of such participation hereunder or of any interest or right of such Subscriber or of his transferee hereunder, and thereupon all interest and right of such defaulting Subscriber or his transferee hereunder shall cease and determine. At any public sale hereunder of any interest or right of any Subscriber or his transferee, the Bankers, or any party hereto, may purchase the same for their or his own benefit, without accountability; but notwithstanding any sale, whether public or private, the defaulting Subscriber shall be responsible to the Bankers for the benefit of the Syndicate for all damages resulting from any such failure on his part, not exceeding the amount unpaid on his subscription hereto with lawful interest.

V. The Bankers shall have full power, in their discretion, from time to time, to make with the Company any additional agreements, relating to the purchase and sale of the convertible bonds herein mentioned, as, in the exercise of their unlimited discretion, they may deem expedient, and also, from time to time, to modify and perform said agreement with the Company and any other agreements they may make with the Company hereunder, as they may deem expedient. The Bankers shall be under no responsibility in respect of the form or validity of the convertible bonds or of any receipts or certificates, nor for the delivery of bonds by the Company in exchange for any receipts or certificates which may be issued for payments on account of the purchase of bonds, nor for the performance of any agreement contained in any such receipts or certificates.

VI. The Bankers shall have authority, from time to time and at any time, to incur such expenses as they may deem proper in carrying out, or in endeavoring to carry out, this agreement, or in connection with the preparation, execution or examination of the securities which may be the subject of this agreement, or in doing any act or thing which they may deem to be in the interest of the Syndicate, and all such expenses shall constitute and shall be a prior charge in their favor upon any and all moneys and bonds, by them received or held hereunder. Any and all moneys by them received hereunder shall be held by them as Bankers in general account. They shall also have power and authority finally to fix and to pay all compensations of depositaries, brokers, agents and counsel, or others; and in the expense account may be included brokers' commissions to the Bankers or any of them on sales or purchases of bonds at the rate usually paid.

VII. The Bankers shall have full power, as in the exercise of their unrestricted discretion they shall deem to be for the best interests of the Syndicate, from time to time, during the life of the Syndicate, in such manner, upon such terms and for such prices as they shall deem expedient, to sell and dispose of any and all bonds that may be subject to this agreement. In case of any such sale the proceeds thereof shall become and be subject to this agreement; and, as managed, used and finally distributed by the Bankers under the provisions of this agreement, the same shall be accepted by the Syndicate in full and final discharge of any and all obligation and liability of the Bankers hereunder. During the life of the Syndicate the Bankers, in such manner, at such prices, on such terms and in such amounts as they may deem expedient, shall have power, for account of the Syndicate, to make purchases of the convertible bonds or receipts or certificates representing bonds or rights which may be accorded

to stockholders to subscribe for bonds, and they may resell any such bonds, receipts, certificates or rights which they may have purchased; and, in their discretion, they may make any further undertakings of any kind with any persons concerning any such bonds, receipts, certificates or rights. They may apply towards any such purchases any sums realized from any sales of convertible bonds of the Company under any provision of this agreement; and they may make advances, or may procure loans, and may secure the same to such amounts and in such manner as from time to time they may deem expedient for any of the purposes of this agreement.

VIII. The Syndicate shall continue until July 1, 1907, unless sooner terminated by the Bankers, and it may be extended thereafter from time to time by the Bankers, in their discretion, but not beyond July 1, 1908. No Subscriber shall be entitled to receive any of the convertible bonds or the proceeds thereof, which may be subject to this agreement, until the termination of the Syndicate. In the meantime in their discretion, the Bankers may retain all or any of such convertible bonds or may deliver to any Subscriber his proportionate part thereof. In the latter case such Subscriber shall hold the same subject to sale by the Bankers, and shall return the same upon the call of the Bankers at any time before the termination of the Syndicate. No Subscriber shall, prior to the termination of the Syndicate, sell or contract for the sale of any of the convertible bonds subject hereto. Nothing herein shall be construed to prevent any Subscriber or any of the Bankers from dealing in any manner with bonds not subject to the provisions of this agreement. The Bankers shall be the only and final judges as to whether at any time it is to the interest of the Syndicate to proceed further under this agreement; and, whenever they may deem expedient, they may abandon the objects contemplated by this agreement and all further proceedings hereunder. In such event all cash and convertible bonds by them received and then held for account of the Syndicate, and the proceeds of such bonds, shall remain charged with the payment of all expenses and liabilities by them incurred hereunder, and shall be applied, *first*, to the payment of any and all expenses incurred by the Bankers under any provision of this agreement, and, *secondly*, to the repayment to the Subscribers, ratably, of all amounts of such convertible bonds or cash held by the Bankers subject to this agreement (so far as the same may be sufficient for that purpose). After the complete performance of the entire obligation of the Syndicate hereunder, but not before the date set from time to time for the termination of the Syndicate as above provided, unless otherwise determined by the Bankers in the exercise of their unrestricted discretion, and upon surrender of the certificates and receipts issued hereunder by the Bankers, which surrender by any Subscriber shall constitute a final release and satisfaction of all his claims hereunder, the Syndicate shall be entitled to receive the profits of the purchase, use, sale and disposition of the convertible bonds which shall be or become subject to this agreement. The Bankers shall make no charge for their services hereunder, but shall be entitled to retain for themselves, without accountability to the Subscribers, the difference between the aggregate net price at which the Bankers under their said contract are to acquire said bonds from the Company and the aggregate price at which, under this agreement, the Syndicate is to receive bonds or the proceeds of bonds; the Bankers being entitled to retain also any other benefits accruing to them under their said contract with the Company.

IX. The Bankers shall be the sole managers of the Syndicate, and in behalf of the Syndicate they may make any and all arrangements, including the purchase or sale of any of the securities of the Company, and may perform any and all acts, even though not herein provided for, which in their opinion shall be or become necessary or expedient in order to carry out the purposes of this agreement, or to promote or to protect what they shall deem to be the best interests of the Syndicate. The enumeration of specific powers elsewhere in this agreement shall not be construed as in any way abridging the general powers by this article conferred upon or reserved to the Bankers. The Bankers shall not be liable under any of the provisions of this agreement nor for any matter connected therewith, except for good faith in performing the obligations by them herein expressly assumed; and no obligation not herein expressly assumed by them shall be deemed to be implied. In consideration of the irrevocable rights in them vested hereunder, and the promises of the several Subscribers, and upon the terms and conditions herein contained, the Bankers have become parties to, and in good faith will endeavor to consummate the purposes of, this agreement.

IN WITNESS WHEREOF, the Bankers, parties of the first part hereto, have subscribed originals hereof, and the parties of the second part have subscribed said originals or counterparts thereof, as of the day and year first above written.

J. P. MORGAN & Co.
 KUHN, LOEB & Co.
 KIDDER, PEABODY & Co.
 BARING BROTHERS & Co., LTD.
 By KIDDER, PEABODY & Co.

EXHIBIT No. 1659-23

[From files of American Telephone and Telegraph Company. Memorandum initialed by J. P. Morgan, Kuhn, Loeb & Co., Robert Winsor, F. P. Fish, and W. M. Crane.]

with 10171

In investing, caring for and depositing the money received from the sale of bonds the company shall exercise all reasonable precaution, in consultation with the bankers and with their cooperation to deposit and use so much of it as it shall from time to time not require for the current purposes of its business, in such a way and in such places as not to disturb or disarrange money market conditions and the Company will seek to meet the reasonable suggestions of the Bankers in respect to the employment of the funds. It is understood that the bankers will not suggest deposits unless such deposits will receive interest at the rate of three per cent. per annum.

(Initialed:) J. P. M.; K. L. & Co.; R. W.; F. P. F.; W. M. C.

EXHIBIT No. 1659-24

100 Million 4% Convertible Gold Bonds Offered February 15, 1906

Syndicate Joint Allotments made by K. L. & Co. and J. P. M. & Co.	Bonds
American Exchange Natl Bank.....	175,000
Asiel & Co.....	70,000
Adams Express Co.....	150,000
Bank of British North America.....	70,000
Simon Borg & Co.....	70,000
Blair & Co.....	250,000
Borsswain & Co.....	40,000
Bank of Montreal.....	100,000
J. S. Bache & Co.....	150,000
Blake Bros. & Co.....	150,000
George F. Baker.....	400,000
C. D. Barney & Co.....	150,000
Brown Brothers & Co.....	150,000
Bank of New York, N. B. A.....	150,000
Bankers Trust Co.....	150,000
George P. Butler & Bro.....	120,000
Thomas Branch & Co.....	250,000
Citizens Saving & Trust Co. at Cleveland.....	40,000
Cuyler Morgan & Co.....	250,000
Commercial Natl Bank, Chicago.....	70,000
Central Trust Co.....	500,000
Chase National Bank.....	150,000
Clark Dodge & Co.....	70,000
Dominick & Williams.....	150,000
DeHaven & Townsend.....	40,000
A. G. Edwards & Sons, St. Louis.....	70,000
Equitable Trust Co.....	120,000
Emanuel Parker & Co.....	70,000
Fidelity Trust Co., Balti.....	40,000
A. B. Leach & Co.....	120,000
Fifth Avenue Trust Co.....	40,000
Fahnestock & Co.....	70,000
H. C. Frick.....	200,000

100 Million 4% Convertible Gold Bonds Offered February 15, 1900—Continued

Syndicate Joint Allotments—Continued.

	Bonds
Harvey Fisk & Sons.....	3,300,000
Francis Brothers & Co., St. Louis.....	70,000
First National Bank, N. Y.....	5,000,000
First National Bank, Chicago.....	250,000
Guaranty Trust Co.....	100,000
Robert Garrett & Sons, Balti.....	70,000
H. P. Goldschmidt & Co.....	70,000
Goldman Sachs & Co.....	150,000
P. J. Goldhart & Co.....	200,000
Hanover National Bank.....	250,000
N. W. Halsey & Co.....	250,000
Herdelbach Ickelhurner & Co. ¹	350,000
Henderson & Co.....	75,000
Hudson Trust Co., Hoboken.....	120,000
A. A. Housmann & Co.....	100,000
E. H. Harriman.....	1,000,000
Hallgarten & Co.....	150,000
Herzfeld & Stern.....	150,000
Halle & Stieglitz.....	70,000
Industrial Trust Co., Providence.....	250,000
Kean Van Cortlandt & Co.....	150,000
Rudolph Keppler & Co.....	25,000
Knauth Nachod & Kuhne.....	120,000
Kountye Bros.....	300,000
Kingsley Mahon & Co.....	40,000
Kissell Kinnicutt & Co.....	120,000
Ladenburg Thalmann & Co.....	250,000
Lehman Bros.....	150,000
Liberty National Bank.....	150,000
Mackay & Co.....	200,000
Thos. L. Manson & Co.....	120,000
Maitland Coppel & Co.....	100,000
Merchants National Bank.....	70,000
Morton Trust Co.....	250,000
Mercantile Trust & Deposit Co., Baltimore.....	100,000
John Monroe & Co.....	70,000
Morristown Trust Co.....	70,000
Moore & Schley.....	120,000
Moffat & White.....	225,000
Morgan & Bartlett.....	70,000
Manhattan Trust Co.....	1,250,000
Robert H. McCurdy.....	70,000
E. Naumburg & Co.....	25,000
National Bank of Commerce, N. Y.....	500,000
Newport Trust Co., Newport, R. I.....	20,000
National City Bank.....	250,000
New York Trust Co.....	150,000
Plympton Gardiner & Co.....	150,000
Phenix National Bank.....	40,000
Potter Choate & Prentice.....	400,000
Probst Wetzlar & Co.....	120,000
Post & Flagg.....	40,000
Redmond & Co.....	150,000
John D. Rockefeller.....	2,500,000
Rhodes & Co.....	70,000
J. & W. Seligman & Co.....	400,000
J. S. Smithers & Co.....	350,000
Sternberger Sinn & Co.....	40,000
Edward Sweet & Co.....	70,000
Strong Sturgis & Co.....	50,000
Scholle Bros.....	70,000
Sutro Bros. & Co.....	70,000

¹ So in original.

100 Million 4% Convertible Gold Bonds Offered February 15, 1900—Continued

Syndicate Joint Allotments—Continued.

Bonds

William Salomon & Co.....	250,000
Standard Trust Co.....	70,000
John A. Stewart.....	70,000
Schafer Bros.....	40,000
Spencer Trask & Co.....	250,000
Title Guaranty & Trust Co.....	70,000
U. S. Mortgage & Trust Co.....	100,000
U. S. Trust Co.....	120,000
L. von Hoffmann & Co.....	500,000
Van Emburgh & Atterbury.....	150,000
Windsor Trust Co.....	100,000
Werner & Brown.....	40,000

In Philadelphia :

Brice Monges & Co.....	40,000
Thomas A. Biddle & Co.....	100,000
Bank of North America.....	70,000
Commercial Trust Co.....	70,000
Erwin & Co.....	40,000
Fourth Street National Bank.....	70,000
Farmers & Mechanics National Bank.....	100,000
George S. Fox & Sons.....	40,000
R. Glendenning & Co.....	70,000
Germantown Trust Co.....	70,000
Girard Trust Co.....	100,000
Newburger Bros. & Henderson.....	40,000
W. H. Newbold's Son & Co.....	40,000
Philadelphia National Bank.....	140,000
Philadelphia Trust Safe Deposit & Insurance Co.....	70,000
Sailer & Stevenson.....	70,000
Winthrop Smith & Co.....	70,000
Toland Bros. & Co.....	70,000
Townsend Whelan & Co.....	70,000

Foreign :

Amsterdamsche Bank, Amsterdam.....	250,000
Banque de Paris et de Pays Bas, Paris.....	700,000
Baseler Handelsbank, Basel.....	70,000
Bank für Handel & Industrie, Berlin.....	350,000
Banque Federale, Zurich.....	100,000
Comptoir National, Paris.....	100,000
Commerz & Disconto Bank, Hamburg.....	100,000
Direction der Disconto Gesellschaft, London Agency.....	250,000
Dresdner Bank.....	1,400,000
Norddeutsche Bank in Hamburg.....	750,000
National Bank für Deutschland, Berlin.....	150,000
Societe Generale, Paris.....	250,000
Schweizensche Kredit Anstalt, Zurich.....	250,000
Swiss Bankverein.....	300,000
Von Speyr & Co., Basel.....	125,000
M. M. Warburg & Co., Hamburg.....	420,000

Total Joint List.....	35,170,000
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J. P. M. & Co. List

Ackermann & Coles.....	50,000
Robert Bacon.....	100,000
Bank of California.....	800,000
Bertron Storrs & Griscom.....	50,000
W. N. Cohen.....	25,000
Columbia Trust Co.....	70,000
Citizens Central National Bank.....	100,000
Franklin Trust Co., Brooklyn.....	120,000
Harvey Fisk & Sons (See Joint List).....	200,000
First National Bank, Chicago (See Joint List).....	250,000
German American Insurance Co.....	100,000

190 Million 4% Convertible Gold Bonds Offered February 15, 1900 - Continued

J. P. M. & Co. List— Continued.

	Bonds
Isaac W. Hellman	360,000
James H. Hoyt	150,000
Keech Loew & Co.	70,000
D. P. Kingsley	20,000
Knickerbocker Trust Co.	1,000,000
L. C. Ledyard	200,000
Col. C. W. Larned	7,000
M. Martin, Jr.	50,000
E. R. Morse & Bro.	250,000
Morgan, Harjes & Co.	300,000
National Park Bank	150,000
Paine & Wilson	40,000
John D. Rockefeller (See Joint List)	1,500,000
Arthur P. Sturgis	25,000
Francis L. Stetson	100,000
H. McK. Twombly	100,000
Union Trust Co. (See Joint List)	150,000
L. C. Weir	50,000
J. P. Morgan & Co.	3,588,000
Kuhn, Loeb & Co.	4,915,000
Kidder, Peabody & Co.	5,000,000
Kidder, Peabody & Co. for New England	25,000,000
J. S. Morgan & Co.	2,000,000
London	18,000,000
Total Bonds	100,000,000

EXHIBIT No. 1659-25

FREDERICK P. FISH, *President.*

EDWARD J. HALL

THOMAS SHERWIN

CHARLES P. WARE

Vice Presidents.

CHARLES EUSTIS HUBBARD, *Secretary.*

WILLIAM R. DRIVER, *Treasurer.*

AMERICAN TELEPHONE AND TELEGRAPH COMPANY,

Boston, January 7th, 1907.

CHARLES STEELE, Esq.,

% Messrs. J. P. Morgan & Company,

Wall & Broad Sts., New York City.

DEAR SIR: At the request of Mr. Fish I send herewith a copy of the two (2) agreements and of the memorandum between this Company and the Bankers touching the issue of notes and convertible bonds.

I have not been able to find Mr. Frederick B. Snow this afternoon and send on these papers to you without conference with him.

Yours very truly,

GEO. V. LEVERETT.

MEMORANDUM made this eighth day of January, 1907, between the American Telephone and Telegraph Company, (hereinafter called the Company), of the first part, and J. P. Morgan & Company, Kuhn, Loeb & Company, Kidder, Peabody & Company, and Baring Brothers & Company, Limited, (hereinafter called the Bankers), of the second part, to accompany an agreement of this date between the Company and the Bankers modifying the agreement between the parties hereto dated February 8, 1906.

As payments become due from the Bankers for the balance of the One hundred million dollars convertible bonds which have been purchased by them, the Company will at the request of the Bankers issue to the Bankers for said payments and in lieu of an amount of such bonds not exceeding \$25,000,000, face value, notes of the Company to an amount equal to 89½ per cent of such face value of the said bonds, payable at such dates as the Bankers may request but not more than one year from their date; upon

maturity of such notes the Bankers shall take and pay for the convertible bonds in lieu of which said notes may have been temporarily issued.

The net price to be paid by the Bankers for said notes shall be such a price that the actual cost to the Company of the money received, taking into account the respective rates of interest of the notes and bonds and the time that will elapse before their maturity, shall be the same as if the taking of the convertible bonds had not been postponed.

AMERICAN TELEPHONE AND TELEGRAPH COMPANY,
By F. P. FISH, *President*
J. P. MORGAN & Co.
KUHN, LOEB & Co.
KIDDER PEABODY & Co.
BARING BROS. & Co., LTD.
By KIDDER PEABODY & Co., *Atty's.*

THIS AGREEMENT made this eighth day of January, 1907, between the American Telephone and Telegraph Company, a corporation of the state of New York, (hereinafter called the Company), of the first part, and J. P. Morgan & Company, Kuhn, Loeb & Company, Kidder, Peabody & Company, and Baring Brothers & Company, Limited, (hereinafter called the Bankers), of the second part,

WITNESSETH:

Referring to the agreement between the parties hereto dated February 8, 1906, as modified by letters dated February 13, 1906, in which the Bankers agree to purchase \$100,000,000 convertible four per cent bonds of the Company dated March 1, 1906, out of a total issue of \$150,000,000, and under which they have the option to purchase the balance of said issue amounting to \$50,000,000, the parties hereto agree as follows:

1. The Bankers agree that a substantial amount of the convertible bonds purchased by them under the agreement of February 8, 1906 shall, within sixty days, be offered for public subscription and be distributed.

2. Said agreement of February 8, 1906, as modified, is further modified by reducing the option price for said balance of said issue of convertible bonds, amounting to \$50,000,000, from 98½ per cent, less 2½ per cent commission, to 90 per cent, less 2½ per cent commission, upon the par value of the bonds.

3. Three and a half million dollars shall be allowed to the Syndicate which has purchased the One hundred million dollars convertible bonds from the Bankers as a reduction in the price to be paid for said bonds by the Syndicate. Of the foregoing amount Five hundred thousand dollars will be furnished by the Bankers and Three million dollars by the Company, to be paid to the Bankers pro rata as payments are made by the Bankers for these bonds. The pro rata amount due in respect of bonds already paid for by the Bankers under said agreement of February 8, 1906 shall be deducted from the payment due from the Bankers on January 15, 1907.

AMERICAN TELEPHONE AND TELEGRAPH COMPANY,
By F. P. FISH, *President*
J. P. MORGAN & Co.
KUHN LOEB & Co.
KIDDER PEABODY & Co.
BARING BROS & Co., LTD.
By KIDDER PEABODY & Co., *Atty's.*

THIS AGREEMENT made this eighth day of January, 1907, between the American Telephone and Telegraph Company, a corporation of the state of New York, (hereinafter called the Company), of the first part, and J. P. Morgan & Company, Kuhn, Loeb & Company, Kidder, Peabody & Company, and Baring Brothers & Company, Limited (hereinafter called the Bankers), of the second part,

WITNESSETH:

Referring to a proposed issue by the Company of \$25,000,000 five per cent notes to be dated January 1, 1907, maturing on the average in three years, and redeemable at the option of the Company at 102 and accrued interest, the parties hereto agree as follows:

The Bankers will purchase forthwith at 93 per cent and accrued interest, less a commission of 2 percent upon the par value, said \$25,000,000 of five per cent notes and will take the same as follows: \$5,000,000 of notes forthwith and the remaining notes in lots not exceeding \$5,000,000 each as called for by the Company after ten days notice, but the Bankers reserve the right to take the whole or any part of the remainder at any time.

Said notes shall be made payable in gold and at such dates not exceeding five years and not less than one year from January 1, 1907 as the Bankers may request, provided however that the average date of maturity of all of said notes shall be three years from their date.

AMERICAN TELEPHONE AND TELEGRAPH COMPANY,
By F. P. FISH, *President*.
J. P. MORGAN & Co.,
KUN, LOEB & Co.,
KIDDER, PEABODY & Co.,
BARING BROS. & Co., LTD.,
By KIDDER, PEABODY & Co., *Attys.*

KIDDER, PEABODY & Co.,
115 DEVONSHIRE ST., P. O. BOX 7,
Boston, January 12, 1907. G.

PRIVATE

MESSRS. J. P. MORGAN & Co.,
New York, N. Y.

DEAR SIR: We have your letter of January 11th.

Mr. Fish has taken up the matter of bringing his letter down to date, and will try to have it accomplished so that Mr. Winsor can take it over with him on Monday night.

We enclose herewith three sets of Agreements signed by the Telephone Company, Kidder, Peabody & Company and Baring Brothers & Co., Ltd., and shall be much obliged if you and Messrs. Kun Loeb & Co. will sign these papers, each of you retaining one of the sets and forwarding the third to us.

Very truly yours,

KIDDER PEABODY CO.

Enclosure.

KIDDER, PEABODY & Co.,
115 DEVONSHIRE ST., P. O. BOX 7,
Boston, January 16, 1907. S.

MY DEAR STEELE: I enclose herewith redraft of the Telephone Coupon Note and the original draft of the Registered Note. The issue of the Registered Note has made it necessary to change some of the language in the Coupon Note, which had already been sent to you for approval.

If both Notes meet your approval, will you kindly return them tomorrow, so that there may be as little delay as possible in getting them from the Bank Note Company.

I also enclose the original draft of the Coupon Note, which we sent you before.

Very truly yours,

ROBERT WINSOR.

CHARLES STEELE, Esq.,
Messrs J. P. Morgan & Co., New York, N. Y.

EXHIBIT No. 1659-26

[From files of Federal Communications Commission]

EXCERPTS FROM "THE WALL STREET JOURNAL"

July 19, 1906.—On sale of but three bonds, American Telephone & Telegraph 4's declined Monday 27½ points to 90¾. This was coincident with the third

call on the convertible syndicate which came as a reminder that seven more calls are to be expected in regular sequence. The sharp decline in the old bonds at this time is to be attributed merely to lack of buying power in the market.

July 23, 1906.—The third and last call for 1906 upon the American Tel. & Tel. Co. \$100,000,000 4% convertible bond syndicate will be made early in October. The taking up of this third block of bonds will give the syndicate a total of \$30,000,000 bonds.

There is no present intention of offering the Telephone bonds, and it is safe to assert that no offering will be made until the general tone of the bond market has shown a marked improvement.

The total number of calls on the syndicate is nine, one call being for a greater amount than 10%, sufficient to make the difference between 90% and the price which the syndicate paid for its securities.

Boston—The American Tel. & Tel. has borrowed about \$5,000,000 for three, four, five, and six months. The financial demands upon the company for telephone expansion are very heavy, and must be complied with as far as necessary.

The next call for 10% upon the telephone underwriters does not mature until Oct. 15, and the company in putting out its notes at this time is practically anticipating that call.

October 25, 1906.—The dividend rate of the American Telephone & Telegraph Co. stock was increased recently from $7\frac{1}{2}\%$ to 8% per annum, and yet the price of the stock is only 137½ now as compared with the high of the year of 144½. There is room for inquiry as to the decline in the price of this security especially in view of the increase of the dividend rate.

In the first place, it may be noted that the increase in the dividend rate at this time must have been made mainly to help the market for the \$100,000,000 of new convertible bonds. The earnings were satisfactory, but the bonds were awaiting a market, and as the increase in the dividend rate presumably made them more attractive to the investors by increasing the importance of the convertible feature, it is only reasonable to assume that this matter had something to do with the decision to increase the dividend.

The question immediately suggests itself, however. Has the move accomplished its purpose? As far as the price of the stock in the market is concerned, it may be said that the effect has not been great because the stock is actually selling several points lower than it was last January. Any beneficial effect on the price by the dividend increase must be measured by the advance from 130, the low of the year registered on July 18, to the present price, 137½. The stock is still $2\frac{1}{2}$ points below the price at which the bonds may be converted, so that at present conversion would not be profitable.

* * * * *

It is clear to those familiar with the telephone situation that the \$100,000,000 of bonds sold by the company in the early part of the year must soon be distributed. They have been in the hands of the bankers now for more than six months, and meantime the period for which the financing made provision is getting shorter and shorter. In the natural course of events, it will only be about two years before more financing will be necessary.

January 17, 1907.—Boston—The avidity with which the investment public recently absorbed \$25,000,000 of American Telephone short term notes speaks well for the credit of the company. This means much for the success of the flotation of the convertible bonds when the bankers decide to offer them. At the proper time they will be offered at a figure which will insure their successful absorption beyond peradventure.

January 31, 1907.—The announcement is made that subscription lists for \$40,000,000 American Telephone & Telegraph Company's convertible 4 per cent. bonds will be opened on February 5 at the offices of J. P. Morgan & Co., and Kuhn, Loeb & Co. of New York, and Kidder, Peabody & Co. of Boston. A simultaneous issue of bonds will be made by Baring Bros. & Co., and J. S. Morgan & Co. in London, and Hope & Co. in Amsterdam.

(Excerpt from the "Commercial and Financial Chronicle" of March 30, 1907)

(1) On Thursday, Kidder Peabody & Co. will take up from the subscribers and pay them 91 and interest for the amount of bonds thus far sold for syndicate account. The next payment, 30%, on account of the syndicate will be payable at the office of Kidder, Peabody & Co., April 15. (2) Underwrit-

ers of the 4% convertible bonds are today in receipt of checks from the syndicate managers taking up one-tenth of the entire amount of bonds allotted to them. This means that the amount of convertible bonds recently sold was probably slightly in excess of \$10,000,000.

(Continuing "Wall Street Journal" quotations)

June 1, 1907.—BOSTON.—* * * President Vail feels that a closer similarity between the amount of stock and bonds issued than now exists should prevail and any new issue of bonds would, of course, simply tend to emphasize the preponderance in favor of the aggregate amount of bonds issued.

Added to this is the fact that the convertible bonds are still very largely in the underwriters' hands, only about 10% of the entire \$100,000,000 having as yet been taken by investors.

Under these circumstances it will probably be easier for the company to finance its requirements by making an attractive appeal to its large and constantly growing constituency of stockholders.

* * * * *

At 92½ for the bonds the stock would have to recover but four or five points, to 121 to 122, to make the speculative feature of the convertible bonds immediately attractive, under the reduced conversion price.

It has been said that one reason for the proposed issuance of stock at this time was that the syndicate which purchased the convertible bonds had not been willing to live up to its contract even at the reduction in price which was made last January and that the new money was required to supply the deficiency in payments on account of the bonds. * * *

December 18, 1907.—BOSTON.—There have been more or less persistent rumors for the last two weeks that some of the American Telephone syndicate convertible bonds were being quietly marketed. General market conditions and the offering of several good sized lots have tended to lend color to this report.

It is understood that none of the bonds held by the syndicate have been or will be sold except by general participation. The bonds have been pooled in such a way that no syndicate member even were he so disposed could safely offer any portion of his holdings.

There has undoubtedly been trading in the bonds which were sold to investors in the early part of the year, about \$10,000,000 having been disposed of at that time. It is also possible that there has been some selling by syndicate members who paid for their bonds in full in the first few installments and who have had the right at all times to sell their holdings as these bonds were not included in the pool agreement.

April 4, 1908.—BOSTON.—About eight months ago the American Telephone Co. made the important statement that it would require no new financing until the first of January, 1909. If general conditions make it desirable, the American Telephone Co. can get along comfortably until January 1, 1910, without the issuance of additional securities.

This announcement should be pleasing to investors who have been wondering how the underwriters of American Telephone convertible bonds proposed to distribute their unsold balance of \$90,000,000 bonds to investors soon enough before the beginning of next year to enable the company to put out additional security by that time.

The situation in regard to the convertible bonds is far less urgent than popularly supposed. Between \$20,000,000 and \$25,000,000 of the bonds are held by English and continental bankers who are not worrying about the marketing of the bonds.

There appears to be developing a real investment demand for American Telephone securities in England. Last year English bankers took over 30,000 shares of new stock. * * *

June 2, 1908.—BOSTON.—The American Telephone & Telegraph Co. \$100,000,000 4% 30-year convertible bond syndicate has been dissolved, thus anticipating by one month the date when the syndicate agreement formally expires.

According to the terms of the syndicate agreement the syndicate was to expire on July 1, 1907, with the privilege of renewal for one year thereafter, but under no conditions could the syndicate's life be extended beyond July 1 next. Notice extending the syndicate to July 1, 1908, was sent to the underwriters on June 17, 1907.

It is doubtful if in the recent history of American finance an important bond syndicate has never been dissolved with so large a proportion of its bonds undis-

tributed to the public. Of the entire \$100,000,000 bonds but a trifle over \$10,000,000 have been placed among investors. The remaining \$90,000,000 are still in the hands either of the primary or junior underwriters, and the embargo against the sale of these bonds is now removed by the breaking up of the syndicate.

Were the entire \$90,000,000 undistributed bonds hanging over the American bond market the situation might easily be one of apprehension. Fortunately, however, so many of the bonds are held by English and continental bankers that a conservative estimate places the total amount of bonds held by bankers in the United States at not exceeding \$50,000,000.

In the original allotment foreign underwriters were assigned through Baring Brothers, \$25,000,000 of the bonds. In the past four or five months foreign bankers and investors, attracted in part by the excellent showing of earnings made by the Telephone Co., have been buying up syndicate participations at prices fractionally under the board prices for the bonds. It is estimated that fully \$15,000,000 of the bonds have been absorbed through this buying. Adding together the three items of the \$25,000,000 originally allotted to foreign investors, the \$10,000,000 sold to the public in January, 1907, and the \$15,000,000 purchased in the last few months gives a total of about \$50,000,000 bonds which may be considered as having been permanently removed from the bond market in the United States.

The breaking up of the syndicate at this time is in fact an expression of confidence in the fundamental strength of the bond market and the continuance of easy money conditions. It is assumed that underwriters who have carried their bonds for the past two years and a half will not be in a hurry to sacrifice them at the present level of prices when by waiting a few months better results might be obtained.

EXHIBIT No. 1659-27

[From files of Federal Communications Commission]

MAY 29, 1908.

AMERICAN TELEPHONE AND TELEGRAPH COMPANY CONVERTIBLE FOUR PER CENT.
GOLD BONDS SYNDICATE

DEAR SIRs: In accordance with the powers conferred on the Bankers by Article Eighth of the Syndicate Agreement, it has been decided to terminate the above Syndicate on June 1st.

The Syndicate obligations having been fulfilled, there is no further liability on the part of participants, and we beg to notify you that the bonds you have heretofore held subject to the control of the Syndicate Managers are now free.

The final account shows a small debit balance, which the Managers have decided to assume.

Yours very truly,
J. P. MORGAN & Co.,

New York.
KUHN, LOEB & Co.,
New York.

BARING BROTHERS & Co., Ltd.,
London.
KIDDER, PEABODY & Co.,
Boston.

EXHIBIT No. 1659-28

THEO. N. VAIL, President
EDWARD J. HALL }
BERNARD F. SUNNY } Vice Presidents
CHARLES P. WARE }

CHARLES EUSTIS HUBBARD, Secretary
WILLIAM R. DRIVER, Treasurer

AMERICAN TELEPHONE AND TELEGRAPH COMPANY,
Boston, September 26, 1908.

MESSRS. J. P. MORGAN & COMPANY,
KUHN, LOEB & COMPANY,
KIDDER, PEABODY & COMPANY, and
BARING BROTHERS & COMPANY, LIMITED.

DEAR SIRs: Referring to the option which you hold, expiring October 1, 1908, to purchase \$50,000,000 of the thirty year convertible four per cent gold bonds

of this Company, we beg to say, that if at this time you were to avail of that option it might prove to be, taking all things into consideration, detrimental to the best interests of this Company.

In consideration, therefore, of your refraining from taking up that option, or any part thereof, we offer you the right to take at any time between October 10, 1908 and February 1, 1909, both dates inclusive, the whole or any part of \$50,000,000 of such convertible four per cent gold bonds of this Company at the price named in the existing option, that is to say, at 90% of the face value thereof, less $2\frac{1}{2}\%$ commission, with accrued interest. And this Company agrees that you may exercise from time to time during said period said option in part, provided the amount of said bonds which you elect to take at any one time shall not be less than \$5,000,000 par value.

Very truly yours,

THEO. N. VAIL, *President.*

[Copy]

J. P. MORGAN & Co.,
WALL ST. CORNER BROAD,
New York, September 30, 1908.

THEODORE N. VAIL, Esq.,
President, American Telephone & Telegraph Company,
Boston, Mass.

DEAR SIR: We beg to acknowledge receipt of your favor of September 26th, and to say that the arrangement therein suggested is satisfactory to us, and we therefore accept the offer therein contained upon the conditions mentioned.

Very truly yours,

J. P. MORGAN & Co.,
KUH, LOEB & Co.,
KIDDER, PEABODY & Co.,
BARING BROS. & Co., LTD.,
By KIDDER, PEABODY & Co.,
Attys.

NEW YORK AND BOSTON, November 27, 1908.

THEODORE N. VAIL, Esq.,
President, American Telephone & Telegraph Company,
Boston, Mass.

DEAR SIR: Referring to your letter of September 26, 1908, and our reply thereto, dated September 30, 1908, we beg to confirm that we purchase at $87\frac{1}{2}\%$ and interest the \$50,000,000. Convertible 4% Gold Bonds of your Company therein referred to. Payment for the bonds to be made on or before March 1, 1909, at our option.

Yours very truly,

[Confidential]

KIDDER, PEABODY & Co.

115 Devonshire St., P. O. Box 7, Boston—
56 Wall Street, P. O. Box 214, New York

BOSTON, September 29, 1908. S.

MY DEAR PERKINS: Enclosed please find letter from the American Telephone & Telegraph Co., to yourselves, Kuhn, Loeb & Co., ourselves and Baring Bros. & Co., Ltd.

Will you please write a letter, tomorrow, to be signed by yourselves and Messrs Kuhn, Loeb & Co., accepting the conditions of the Company's letter, and forward to us for our signature, for ourselves and Messrs Baring Bros. & Co., Ltd., that we may hand the same to the Company.

Very truly yours,

ROBERT WINSOR.

P.S.—Though of course they realize it just as well as we do, it might, nevertheless, be as well to remind Messrs Kuhn, Loeb & Co. of the importance of keeping this matter confidential as possible.

GEORGE W. PERKINS, Esq.

KIDDER, PEABODY & Co.

115 Devonshire St., P. O. Box 7, Boston—
56 Wall Street, P. O. Box 214, New York

BOSTON, September 26, 1908. S.

MY DEAR PERKINS: Enclosed is form of letter which I understand Mr. Vail ~~the~~ the Company will be prepared to sign on Tuesday, after his the Executive Committee meeting.

Please let me know, before three o'clock on Monday, if you or Mr. Schiff have any suggestions.

Hastily yours,

ROBERT WINSOR.

GEORGE W. PERKINS, Esq.,

Messrs J. P. Morgan & Co., New York, N. Y.

(Handwritten:) Sunday—I brought this home last night and have talked with Mr. Vail on the telephone today, hence the pencil changes—R. W.

Enclosure.

EXHIBIT No. 1659-29

[From files of Federal Communications Commission]

JANUARY 15, 1907.

HON. W. MURRAY CRANE,

United States Senate, Washington, D. C.

MY DEAR SENATOR CRANE: I enclose a copy of a letter received from Mr. Waterbury, which I think is entitled to serious consideration.

Very truly yours,

F. P. FISH, *President.*

(Enclosure)

[Source: President's Letter Book 46.]

UNITED STATES SENATE,

Washington, Jan. 16, 1907.

Mr. F. P. FISH,

President, 125 Milk St., Boston.

DEAR MR. FISH: Your letter of the 15th instant is received with enclosed copy of one from Mr. Waterbury which I have read with interest. I agree with him that it would be well to have such a committee appointed and I further think that Mr. Baker and Mr. Coolidge would be excellent selections for two members of such committee. Mr. Vail should in my opinion be made a member of that Committee also, and I hope that he will be chosen. I presume that you will call this matter to the attention of the Executive Committee today so that prompt action can be taken.

Sincerely yours,

W. M. CRANE.

UNITED STATES SENATE,

Washington, January 21, 1907.

Mr. F. P. FISH,

125 Milk Street, Boston, Mass.

DEAR MR. FISH: I shall appreciate it very much if the Committee will, at its meeting Wednesday, take favorable action on the letter that you received from Mr. Waterbury, recommending the appointment of a Committee on Organization, etc., and I suggest that that committee be composed of Messrs. Coolidge, Baker, Waterbury and Vail. I am sure that they could make suggestions that would be of value to the Committee and of assistance to you. Many of the larger and stronger companies should be consolidated with the smaller and weaker Companies. For instance New York and companies up state; and the same changes should be made in other parts of the country. This Committee could devise some way for the bringing about of the proper consolidation and do work that

the President really does not have time to do. Their report of course would be made to the executive Committee and before any action was taken would have to be satisfactory to that Committee. Other suggestions that they might make would also be helpful and I earnestly hope that some action will be taken.

Sincerely yours,

W. M. CRANE.

[Source: President's file 16825.]

[Source: President's file 16851]

[Copy]

A. T. & T. Co., Executive Committee,

January 23, 1907.

Resolved: that Messrs. Crane, Baker, Coolidge, Vail and Waterbury be requested to serve as a special committee to consider the organization of the Company and its relation to the associated Companies and to report to the Executive Committee with recommendations, said special committee to have authority to employ experts.

This letter also sent to the following: T. J. Coolidge, Jr., Ames Building, Boston; T. N. Vail, Lyndonville, Vermont; G. F. Baker, % First National Bank, 2 Wall St., New York City; W. M. Crane, United States Senate, Washington D. C.

(Handwritten:) P. F. 16852, 16851, 16850, 16892, 16895.

JANUARY 24, 1907.

Personal.

JOHN I. WATERBURY, Esq.,

% Manhattan Trust Company, 20 Wall Street, New York.

DEAR SIR: At the meeting of the Executive Committee held yesterday the following resolution was passed:

"Resolved, That Messrs. Crane, Baker, Coolidge, Vail, and Waterbury be requested to serve as a special committee to consider the organization of the Company and its relation to the associated companies and to report to the Executive Committee with recommendations, said special committee to have authority to employ experts."

I sincerely hope that you will be willing to serve on the committee.

Very truly yours,

F. P. FISH, *President.*

[Source: President's Letter Book 46.]

(Handwritten:) See L. B. 46/395--16850, 16851, 16852, 16895.

P. O. R. R. Exp. Tel., Lyndonville, Vt.

THE HOUSE, SPEEDWELL FARMS,

Lyndon, Vermont, Jan'y. 25, 07.

MY DEAR MR. FISH: I shall be pleased to serve on the committee if I can in any way serve the Company or assist you. I suppose notification will be sent, of the first meeting, stating time and place.

THEO. N. VAIL.

UNITED STATES SENATE,
Washington, January 30, 1907.

Mr. F. P. FISH,

125 Milk Street, Boston, Mass.

DEAR MR. FISH: I presume that you have been informed that the recently appointed Committee will meet in New York Friday afternoon and Saturday,

I cannot be present Friday but hope to attend the meeting Saturday. When in New York yesterday I had a short talk with Mr. Waterbury but was unable to see Mr. Baker.

Sincerely yours,

W. M. CRANE.

Wall Street.
Corner
Nassau.
New York.

[Source: President's file 16851]

APRIL 2ND., 1907.
See Ex. Com. IV. { 220
 { 240

F. P. FISH, Esq.,
President, American Tel. & Tel. Co., Boston, Mass.

DEAR SIR: Referring to the outline organization submitted by the undersigned, and acknowledging your favour of the 29th ult., presenting important suggestions with respect thereto, the Committee desires to say that they have given the subject further consideration and are of the opinion that the subject should be dealt with by the Executive Committee directly.

That Committee is in close contact with the affairs and administration of the Company, with opportunities for observation, and prompt consideration of all matters affecting the organization which may not be enjoyed by the special committee.

To facilitate consideration of the subject by the Executive Committee, and enable it to meet the increased labour imposed, the undersigned recommend that the said Committee be increased in number not to exceed seven including the President, and, as the subject, as so clearly set forth in your letter, demands consideration in every particular and from every point of view, the Committee may appoint a Chairman in order that the organization may be formulated without interfering with the regular business of the Company.

Inasmuch as the By Laws will have to be amended to permit such increase of number the undersigned recommend, pending an amendment to the By Laws, that the Board appoint one or more Associate Members of the Executive Committee to attend its meetings and assist in determining a plan of organization and in the consideration of any other matters concerning the interests of the Company, and to unite with the Executive Committee in reporting to the Board.

Yours very truly,

GEO. F. BAKER.
JOHN I. WATERBURY.
W. M. CRANE.
THEO. N. VAIL.
T. JEFFERSON COOLIDGE, Jr.

FREDERICK P. FISH, *President*.
EDWARD J. HALL }
THOMAS SHERWIN } *Vice Presidents*
CHARLES P. WARE }

CHARLES EUSTIS HUBBARD, *Secretary*
WILLIAM R. DRIVER, *Treasurer*

AMERICAN TELEPHONE AND TELEGRAPH COMPANY,
Boston, Apr. 23, 1907.

To the Board of Directors of the American Bell Telephone Co.

GENTLEMEN: I hereby tender my resignation as President of your Company and request that the same be accepted not later than May 1, 1907.

Very Respectfully Yours,

FREDERICK P. FISH.

FREDERICK P. FISH, *President*.
EDWARD J. HALL }
THOMAS SHERWIN } *Vice Presidents*
CHARLES P. WARE }

CHARLES EUSTIS HUBBARD, *Secretary*
WILLIAM R. DRIVER, *Treasurer*

AMERICAN TELEPHONE AND TELEGRAPH COMPANY,
Boston, Apr. 23, 1907.

To the Board of Directors of the American Bell Telephone Co.

GENTLEMEN: I hereby tender my resignation as a member of your Board and request that the same be accepted not later than May 1, 1907.

Very Respectfully Yours,

FREDERICK P. FISH.

[Source: President's file 17093.]

EXHIBIT No. 1659-30

[From files of Federal Communications Commission]

[Copy]

THEODORE N. VAIL, Esq.,

MAY 8TH, 1907.

*President, American Telephone & Telegraph Co.,
125 Milk St., Boston, Mass.*

DEAR SIR: Our interest in the success and prosperity of your Company induces us to repeat to you what we have already said, verbally, to your predecessor, Mr. Fish.

We consider it of vital consequence to the financial welfare of the Company that no expenditures should be entered upon in the near future, except such as are absolutely necessary, no matter what the prospective profits on other expenditures may be,—the credit of the Company being of paramount importance.

Very truly yours,

(Signed) J. P. MORGAN & Co.,

(Signed) KUHN, LOEB & Co.

(Signed) KIDDER, PEABODY & Co.

16 MAY 1907.

MANHATTAN TRUST COMPANY,

20 Wall Street, New York, N. Y.

GENTLEMEN: By virtue of the authority given me by vote of the Board of Directors of the American Telephone and Telegraph Company, I hereby appoint you as the New York agent for the registration of the stock of said Company, such appointment to date June 1, 1907, and your services as such agent to begin on that day.

And I enclose a certified copy of the vote above mentioned.

Yours very truly,

THEO. N. VAIL, *President.*

[Source: President's Letter Book 48.]

GUARANTY TRUST COMPANY OF NEW YORK,

16 MAY, 1907.

30 Nassau Street, New York, N. Y.

GENTLEMEN: By virtue of a vote of the Board of Directors of the American Telephone and Telegraph Company, passed May 14, 1907, I beg to notify you that I have appointed the Manhattan Trust Company as the New York agent for the registration of the stock of the American Telephone and Telegraph Company, such appointment to take effect June 1, 1907, your duties in that regard ceasing on May 31st.

Thanking you for your past services, which have been in every way satisfactory, and with the hope that the relations have been as agreeable to you as they have been to this Company, I am,

Yours very truly,

THEO. N. VAIL, *President.*

[Source: President's Letter Book 48.]

John W. Castles, president; Alexander J. Hemphill, vice president; George Garr Henry, vice president; Max May, manager, foreign department; Wm. C. Edwards, treasurer; E. C. Hebbard, secretary; F. C. Harriman, assistant treasurer; R. C. Newton, trust officer; R. W. Speir, manager, bond department

London Office, 33 Lombard Street E. C. Committee: Arthur John Fraser, Cecil F. Parr, P. C. Wise. Cable addresses: New York, Fidelitas—London, Garritus

GUARANTY TRUST COMPANY OF NEW YORK

28 Nassau Street, New York

Capital \$2,000,000. Surplus \$5,500,000

NEW YORK, May 21, 1907.

MR. THEODORE N. VAIL,

*President, American Telephone and Telegraph Company,
Boston, Mass.*

DEAR SIR: We have your letter of the 16th of May, saying that your Board of Directors had changed the registration of your stock from this Company to another in this city.

As you also state that our services have been satisfactory in every way, would you be good enough to tell us why this change was made? We at all times have done everything we could to cement friendly relations, and as it is *so seldom* that changes of this kind have been made from us, naturally, we would like to find out the reason for it, if consistent for you to say.

Yours truly,

J. W. CASTLES, *President.*

MAY 29, 1907.

P. F. 17150.

J. W. CASTLES, Esq.,

President, Guaranty Trust Company of New York,

28 Nassau Street, New York.

MY DEAR SIR: Replying to yours of May 21, I can only say that conditions sometimes arise in the business world which result in change, even with the most pleasant and cordial relations, without in the least possible way implying or indicating anything that is disparaging or unfriendly.

Very truly yours,

THEO. N. VAIL, *President.*

[Source: President's Letter Book 48.]

FEBRUARY 4, 1908.

HON. W. MURRAY CRANE, *Washington, D. C.*

HENRY S. HOWE, *Boston, Mass.*

JOHN I. WATERBURY, Esq., *New York City.*

GENTLEMEN: It seems to me that we must, if any change is to be made, consider soon the names of some possible additions to our directory. Personally, I think that it would be an exceedingly good plan if Mr. Winsor or some other of the leading members of the firm of Kidder, Peabody & Co., Mr. Henry L. Higginson, of Lee, Higginson & Co., Mr. N. W. Harris of the firm of N. W. Harris & Co., and possibly Mr. J. P. Morgan, Jr., or Mr. Steele, of the firm of J. P. Morgan & Co.—could be induced to join.

There have been suggested to me by various shareholders the names of A. Iselin, Jr., of New York, J. J. Mitchell of Chicago, John Claflin of New York, Cornelius Vanderbilt, of New York—all of whom are well known. Other names suggested have been T. de Coppet, of de Coppet and Doremus, Brokers, large dealers in odd lots; A. M. White of Moffat and White, W. L. Roosevelt, an uncle of Theodore Roosevelt and connected with the Chemical Bank; Henry W. DeForrest, trustee of Mrs. Sage's property.

I merely submit the latter names as I have been requested to by others.

Very sincerely yours,

THEO. N. VAIL, *President.*

[Source: Private Letter Book VI.]

JANUARY 20, 1909.

HON. W. MURRAY CRANE,

191 Massachusetts Ave., Washington, D. C.

DEAR SENATOR: I was talking last night with Mr. Howe in regard to the coming election, and the filling of the vacancy in the Directory. I think if we could get a good Chicago man, a good Philadelphia man, and some good New York man outside of the present group, that it would be a good plan. Mr. Herbert Terrell seems to me to be as good a man as we could get from New York, and I think he would be willing to serve. If we could get Mitchell of Chicago, it would be a good thing, and my second choice would be Smith who is one of the Directors of the Chicago Telephone Company. I think, however, that Mitchell or a man like him would probably be of more benefit to the Company. In Philadelphia, I am not so well posted, and do not know the groups of people sufficiently to suggest. Have you any idea or suggestions to make in respect to that?

I am very much in hopes that you will come over Tuesday as I have a very important matter that I would like to talk over with you and before I talk very generally.

Very sincerely yours,

THEO. N. VAIL, *President.*

[Source: Private Letter Book VI.]

[Copy]

MARCH 19, 1909. S.

MY DEAR MR. ELLIS: I am writing this, after a conversation with Mr. Vail, President of the American Telephone & Telegraph Company.

The Meetings of the Directors of that Company are held in Boston, on the third Tuesday in each month. The New York Directors are in the habit of coming to these Meetings at least three or four times a year.

There is no demand upon the Directors for the reading of papers, either before or after these Meetings. The Statistics, of course, are sent, at regular intervals, to each Director.

We all of us sincerely hope that you can see your way to signifying your willingness to giving this concern the value of your judgment and of your name. It is of national importance that the character of this Directorship should be of the highest possible grade, and, from the other point of view, I believe that the connection would be not only a profitable, but a creditable one to yourself.

Very truly yours,

(Sgd.) ROBERT WINSOR.

RUDOLPH ELLIS, Esq., Personal,
325 Chestnut Street, Philadelphia, Pa.

[Source: President's file 17921.]

EXHIBIT No. 1659-31

[Special delivery]

KIDDER, PEABODY & Co.

115 Devonshire St., P. O. Box 7, Boston—56 Wall Street, P. O. Box 214,
New York

BOSTON, March 20, 1909. S.

MY DEAR MR. VAIL: I am very much pleased that Mr. Rudolph Ellis has accepted the position as Director on the Telephone Company.

I had hardly stopped my talk with you, today, when I received the information, direct.

I enclose herewith copy of the letter which I sent him yesterday afternoon.

Very sincerely yours,

ROBERT WINSOR.

P. S.—My information about Mr. Terrell is that he is a man of ability, and of wealth, but that he is not well known and that his name among the Board of Directors would not have meaning to the general public.

(Handwritten:) Mr. Vail wrote Mr. Ellis 2/23/09. Copy herewith—T. D. B.
Enclosure.

THEODORE N. VAIL, Esq.

NOV. 19TH, 1909.

GEO. F. BAKER, Esq.,
2 Wall Street, New York, N. Y.

MY DEAR MR. BAKER: Referring to your conversation with Senator Crane, I wish to say that it would relieve us of some embarrassment and produce unanimous action on the part of our Board if I should recommend the election of one of the members of Mr. Morgan's firm at the December meeting, and the remaining one at the annual meeting in March.

There are but two vacancies on the Board, and no increase can be made except by the shareholders.

A long time ago with the consent of our Board I asked Mr. J. J. Mitchell of Chicago to joint our Directorate, and he some time since signified his willingness to serve, and our Board think that he should be elected to fill the other vacancy.

I would appreciate it if you would consult with Mr. Morgan and advise me if this course meets with his approval, and if it does, I will see that it is carried out.

Sincerely yours,

THEO. N. VAIL.

[Source: Binder entitled "T. N. Vail Personal May 27 1907 to Jan. 21, 1911."]

EXHIBIT No. 1659-32

APRIL 19, 1910.

MR. H. P. DAVISON,
% J. P. Morgan & Company,
Cor. Wall & Broad Sts., N. Y.

MY DEAR MR. DAVISON: I was in hopes that you would have arrived before my departure, but I understand you are not expected for a week or so yet. Everything seems to be going smoothly and apparently with less friction. In regard to the directorship, I acted as you suggested. I did not propose Mr. Morgan's name, but instead put in dummy Director to await his pleasure, all of which I trust will be satisfactory. Whenever, in the opinion of Mr. Morgan, Jr., it will be wise for him to take the position of Director, we should be very glad to appoint him.

I trust you have had a pleasant trip and have come back with renewed health and vigor.

I hope to return about the middle of June.

Yours sincerely,

THEO. N. VAIL.

TNV-AMD.

[Source: Binder entitled "T. N. Vail Personal May 27 1907 to Jan. 21, 1911."]

EXHIBIT No. 1659-33

MARCH 27TH, 1905.

DEAR MR. COOLIDGE: Both Mr. Cook and myself have given a great deal of thought to the work which has been done and which should now be done, in connection with The Mackay Companies, and I think it will throw light upon the situation to state the facts as I understand them.

Originally, as you know, we started to get all the stock of the Commercial Cable Company, and for the time being we postponed our efforts towards obtaining control of the American Telephone and Telegraph Company. The task of acquiring the Commercial Cable Company stock naturally fell to Mr. Cook and myself. None of us believed that we would be able to gather in all of the Commercial Cable Company stock for a long time to come, but by indefatigable work we succeeded, and the result speaks for itself. That part of the work of the organization that Mr. Cook and myself started to accomplish, has now been completed.

To come now to that part of the work which you and Mr. Waterbury undertook to accomplish, namely, the getting in of the Bell Telephone stock, the first thing to be considered was the formulation of a plan which would be fair to all parties and which would bring about the result. You and Mr. Waterbury did not suggest any plan that seemed workable, and finally Mr. Cook and I devised the plan of issuing 15 Mackay preferred shares for 8 Bell Telephone shares. That plan was submitted to all four of the trustees, and approved. I recommended, as you are aware, that exchange to my mother for her holdings of Bell Telephone stock, and I also accepted it in behalf of my holdings. She and I turned in, week before last, over \$800,000 of Bell Telephone stock on that basis.

That immediately raises the question as to what you and your father and Mr. Waterbury are willing to do in regard to your holdings of Bell Telephone stock. It certainly seems to me that if you and he approved the plan and voted for it, and were quite willing that my mother and I should turn in our Bell Telephone shares on that basis, you should also turn in yours on the same basis, especially as the getting in of the Bell Telephone stock was yours and Mr. Waterbury's part of the purpose of The Mackay Companies. I accordingly would like to know how you stand in regard to the matter. Are you and your father and Mr. Waterbury willing to do the same as I and my mother did, namely, turn in your Bell Telephone stock for Mackay preferred on the same basis mentioned above?

After you and your father and Mr. Waterbury have turned in your holdings, we can then start in to persuade other Bell Telephone stockholders to do the same, and I think that I can be of assistance in that direction.

I have within the past few days talked this matter over with Mr. Waterbury. Accordingly I am also writing you on the same subject, as I feel very

keenly in regard to the whole situation, and I am strongly of the opinion that, as the great body of Commercial Cable stockholders expected that something would be accomplished in the way of The Mackay Companies acquiring stock in the American Telephone and Telegraph Company, and as you know, many of them turned in their holdings on that expectation, we should proceed at once without further delay towards bonding all our energies in bringing about the second part of the original scheme.

Very truly yours,

(Signed) CLARENCE H. MACKAY.

T. JEFFERSON COOLIDGE, Jr.,
Boston, Mass.

EXHIBIT No. 1659-34

OLD COLONY TRUST COMPANY

P. O. Box 363

BOSTON, *March 30, 1905.*

CLARENCE H. MACKAY, Esq.,
253 Broadway, New York, N. Y.

DEAR MR. MACKAY: Your letter of March 27th I have read with great care, and note that your understanding of the situation seems to me, if you will pardon me for saying so, confused by the rapid progress of events, in which the original purpose of the creation of The Mackay Companies is overlooked.

The form of organization of the Companies was suggested by me to you, Mr. Cook, Mr. Waterbury, and, I think, Mr. Ward, at one of our early meetings, and after careful consideration we decided to form The Mackay Companies, for the protection of your interests and the interests of the other stockholders of the Commercial Cable Company against possible loss of control by purchase of a bare majority by the Gould, or Rockefeller, or any adverse interest. This was repeatedly and clearly laid down by you and our friends at our meetings, and was the reason why the form of Massachusetts trust suggested by me was favorably received and adopted, after discussion as to its scope and bearings with the gentlemen named above, and by us with Mr. Olney.

A collateral consideration to the holding together of the control of The Commercial Cable Company was that it would permit, and probably facilitate, opportunities of entering into closer relationship with the American Telephone & Telegraph Company. What form this closer relationship might take was never decided, nor even seriously considered, but the theory upon which we progressed was that we should show the advantage of cooperation and the joint use of poles and offices to the Telephone Company, and by joint use demonstrate that large savings would be made to both companies, naturally resulting in increased value of The Commercial Cable shares, and the result of such working together along these lines would be a more intimate and correspondingly valuable relationship. It was suggested that the relationship might become so close that some form of amalgamation might eventually become possible, and in that case that you might become a factor of importance in the larger field.

Mr. Waterbury and I, in the full belief that it is desirable for The Commercial Cable Company and the Telephone Company to work more closely together, have discussed the matter many times, and, as you have been frequently advised, always with the favorable appreciation of the Telephone people, who, however, properly declined to take affirmative action, appreciating the inadvisability of antagonizing the Western Union interests. There has, however, been a substantial advance on the lines of relationship indicated, both in the West and South, through the joint use of pole lines and otherwise, to our advantage, and everything has been satisfactory.

No one appreciates more than I do the efforts on the part of yourself and Mr. Cook in acquiring the Commercial Cable Company stock within the time in which it was done.

I cannot quite agree with you that Mr. Waterbury and I did not present a plan with respect to acquiring an interest in the Telephone Company. Such a plan was presented by Mr. Waterbury, at considerable length in detail, and with the reasons why it was believed that the plan presented was the best that could be made and would afford most satisfactory results in the speediest manner. You will recall quite a long discussion upon it at Mr. Waterbury's house, and

that Mr. Cook and yourself—he very emphatically—opposed the plan, which involved taking an interest in a syndicate which was to acquire stocks and bonds in financing the Telephone Company, and that I argued at considerable length the advantages which would follow should we act favorably upon the plan proposed, and the very slight risk, if any, that would be run by The Mackay Companies in authorizing us to proceed to carry it into effect. You and Mr. Cook opposed it, and the matter was dropped. The first step in financing has since been carried out successfully and without the Mackay Companies participating in it.

I was surprised some time ago when Mr. Cook raised the question seriously of an exchange of Mackay Companies shares for American Telephone & Telegraph shares, as it showed that he did not appreciate that the Telephone stockholders had not been previously prepared to consider any such proposition. I did not see any object in controverting the suggestion at the time it was made, as it was merely a suggestion.

When Mr. Cook suggested an exchange of your mother's shares as a means of getting an interest in the Telephone Company, and you stated that your mother would be satisfied with the fixed income of the Mackay preferred shares, I very gladly voted to authorize the exchange on behalf of The Mackay Companies up to 10,000 shares of Telephone stock. I thought then that it was desirable for The Mackay Companies to get in ten thousand shares of stock in this way, if they could be obtained, and therefore voted for it, but without expressing my opinion as to the feasibility or desirability of getting in any large amount of stock on these terms. You suggest that I "approved the plan and voted for it". I do not understand that any formal plan was before the trustees. The question before them was whether it was for the interests of The Mackay Companies to exchange on the basis of fifteen Mackay preferred for eight shares of Telephone a limited amount of stock. This I voted for and approved, but I did not seriously consider anything beyond this actual vote. We might pick up from time to time a certain amount of Telephone stock on these lines, but as for making any campaign, it is in my judgment entirely unfeasible at this time. From the point of view of The Mackay Companies, if it were possible to exchange any very large amount of preferred stock for Telephone stock which it is not in my opinion at this time we should have to carefully consider the effect on our Companies of even a temporary reduction in the Telephone dividend. On a small purchase I felt that this could be disregarded.

At the risk of repeating, perhaps, what I have already said above, I must say that as the plan presented to you and Mr. Cook by Mr. Waterbury and myself at Mr. Waterbury's house was not accepted, and we failed to acquire an interest in the Telephone Company under circumstances which could have made us a real factor in the general situation, I am decidedly of the opinion that we cannot now approach the subject and present it in a way which will be favorably received and which can succeed. In other words, in view of existing conditions it seems to me that it is not now feasible to take any steps looking towards securing a substantial financial interest in the Telephone Company or looking towards closer financial relationship, but I think we should follow the original plans outlined, and try, through the business management of our company (The Commercial Cable Co.), to secure continually a closer and closer working arrangement.

Yours very truly,

T. JEFFERSON COOLIDGE, Jr.

EXHIBIT No. 1659-35

APRIL 3RD, 1905.

DEAR MR. COOLIDGE: I have yours of the 30th, and the tone of your letter as well as the statements contained therein are, frankly speaking, nothing short of amazing to me.

Let me at once begin by stating that my mind has not been confused in any way by any events that have transpired since my first meeting with you, and the subsequent formation of The Mackay Companies, and that I have a very clear understanding of everything that has taken place; and further, as you have mentioned Mr. Ward's name in connection with our first meetings, when he was present together with Mr. Waterbury and Mr. Cook, I find that he has identically the same understanding of the situation as I have.

In order that I may refresh your memory, let me begin by stating the different events that have occurred. Mr. Waterbury, at his own solicitation, when my father was alive, had several interviews with him with a view of bringing together the Commercial Cable Company and the American Telephone and Telegraph Company. That was before I knew anything that was going on and before you entered the situation. After my father's death, and on my return to New York, I met Mr. Waterbury through Mr. Ward, and the matter was again broached. He suggested that he would like you to join, and discuss the general situation. I told him I would be very pleased to meet you any time, and one day, you may remember, Mr. Waterbury, yourself and Mr. Ward lunched with me down-town, in the Postal Telegraph Building. The question of bringing these properties together was discussed in an informal way. Both you and Mr. Waterbury were very strongly of the opinion that this should take place and that some plan should be devised. At the very outset both Mr. Ward and I stated that it would be almost impossible to outline a general form of contract between the two companies, and the most feasible way of attaining the end was by obtaining control of the American Telephone & Telegraph Company. You may remember my obtaining for you and Mr. Waterbury a mass of figures showing how savings could be made. Both of you concurred, after seeing these statements, as to the desirability of bringing both these properties together; and while no definite plan could then be formulated as to how and when the control of the American Telephone and Telegraph Company could be obtained, the idea was firmly fixed in all our minds that the control of that company was the essential feature of the success of our plans. Permit me to state that the fundamental basis of The Mackay Companies, with its broad powers, was for bringing your and Mr. Waterbury's influence to bear on the American Telephone & Telegraph Company situation; otherwise, I would never have considered its inception for one moment. I could very easily and with very little trouble have placed my companies in trustees' hands, composed entirely of my own people. You and Mr. Waterbury were practically strangers to me at that time, and it was you who came to me.

The control of the Commercial Cable Company was only a part of the scheme, and your statement that this was the basis of the plan formulated under the name of the Mackay Companies I cannot agree with. The plan of The Mackay Companies following certain laws of the State of Massachusetts was suggested by Mr. Cook, who I remember distinctly telling you that we ought to take the plan that had been followed by the Massachusetts Electric Companies, and you may recollect sending both Mr. Cook and myself copies of their organization. When this form was finally decided upon, Mr. Olney and Mr. Cook, after several meetings, drew up the deed of trust under which we are at present operating. The main object was the giving of broad powers to the Trustees so that they might acquire not only Commercial Cable stock, but also as much as possible of the \$130,000,000 Bell stock without losing control of our own organization. As further proof of the intent to acquire Bell stock you will remember we at once prepared a Trust Agreement to secure bonds to be issued to buy Bell stock. The first draft of that document was sent to you January 7, 1904, and recited on its face that Bell stock and Commercial Cable Company stock were deposited under it as security. You will recollect that you at that time wrote several letters to Mr. Cook making changes and elaborating that Agreement. This Agreement was prepared in four languages and was intended for use on a large scale.

There has been no substantial advance in the way of joint use of pole lines, etc., with the American Telephone and Telegraph Company. On the contrary, we have to pay more than the usual price for the line to Salt Lake City, and in other parts of the country, we have not as yet been able to make any progress worth mentioning.

I note your statement that you and Mr. Waterbury presented a plan for the Mackay Companies becoming interested in the American Telephone and Telegraph Company. That plan, as Mr. Cook and I understand it, was that The Mackay Companies should underwrite \$37,500,000 of the bonds and stock of the latter company, chiefly *bonds*. You and Mr. Waterbury were in favor of The Mackay Companies underwriting that amount, but no provision was made or suggested for taking up the bonds, if the underwriters had to respond. If the Mackay Companies had underwritten \$37,500,000 of these American Telephone and Telegraph Company bonds, and the bonds had *not* been sold by the bankers, and The Mackay Companies had been called upon to respond, it would have meant the ruin of The Mackay Companies, because we certainly could not

have raised such an enormous amount of money. I do not think you could find any conservative shareholder in The Mackay Companies who would be in favor of such an underwriting. Moreover the plan had no particular advantage to The Mackay Companies, because of the \$150,000,000 of stock and bonds only about \$25,000,000 was to be stock, and one-fourth of that would have been \$6,250,000, which certainly would not go far towards giving us the control of the \$155,000,000 of capital stock of the American Telephone and Telegraph Company, as such capital stock would then have been.

At the meeting of the trustees on February 28th, the suggestion was made that we sell Mackay preferred and buy Bell shares. You and Mr. Waterbury opposed it. Then I presented the plan as stated in my former letter, of exchanging 15 Mackay preferred for 8 Bell shares. I note your statement that you did not seriously consider anything beyond acquiring the 10,000 Bell shares. You certainly are wrong in that, because you will recollect that I stated that I hoped to obtain a large amount of Bell on the same terms, and in discussing the plan you suggested that we issue part preferred and part common, as to quote your own words, you "considered the latter might be more marketable than the preferred." The objection Mr. Cook and I made to that was that it so increased our outstanding common shares as to render difficult and improbable any increase in the dividend on the common shares, and you admitted that that was true. As to the suggestion that we should carefully consider the fact of a possible reduction in the dividend on the Bell stock, you will recollect that you mentioned that also at the meeting, and Mr. Cook suggested that we could afford to take chances on that, and that he had confidence in the future of the Bell stock, and that you acquiesced in that view. I think I represent over five-sixths of the preferred and common shares of The Mackay Companies, and it seems to me that if those five-sixths are willing to take the chances on a reduction of the Bell dividend your people can afford to do so. Finally, the fact that several weeks ago, you agreed to obtain for me a list of the shareholders in the American Telephone and Telegraph Company holding 100 shares or more, shows that we all have expected to acquire Bell stock; and in further proof, you will remember when we were all present, Mr. Waterbury told us that he had had a talk with Mr. Baker with a view to acquiring Mr. Baker's Bell stock.

I note your conclusion that inasmuch as your plan for The Mackay Companies underwriting \$37,500,000, of bonds and stocks, was not accepted, you do not think we can now approach the subject and present it to the Bell shareholders in any way in which it can succeed. This certainly is true, if you and your father and Mr. Waterbury refuse to turn in your own stock. You cannot expect the other Bell stockholders to do what you refuse to do. Your suggestion that we confine our arrangements to securing a closer working arrangement with the American Telephone and Telegraph Company would accomplish nothing, judging from the experience of the past year; because, as stated above, we get nothing out of the Bell Company except what we pay for at a high price. In other words, your conclusion practically is that The Mackay Companies stop operations, excepting the routine of receiving dividends on its holdings of stock in other companies and paying dividends on its shares. I cannot acquiesce in any such policy.

This brings us back to the original question as to whether you and your father and Mr. Waterbury are willing or decline to turn in your Bell shares on the same basis on which my mother and I turned in ours. If you decline to do so, it seems to me that, in view of the disinclination on the part of the Trustees to even make an effort to acquire Bell stock, the shareholders in The Mackay Companies should be asked to elect a new board of Trustees.

I should be obliged for an answer at your earliest convenience.

Yours very truly,

(Signed) CLARENCE H. MACKAY.

T. JEFFERSON COOLIDGE, Jr.

EXHIBIT No. 1659-36

OLD COLONY TRUST COMPANY

Ames Building

APRIL 11, 1905.

DEAR CLARENCE: I have discussed Mackay Co. affairs with Mr. Waterbury and in consideration of my poor health he has advised me to resign as a trustee.

I agree with him and therefore am writing you that you may know of my intention to resign at an early day.

With best wishes to you & to Mr. Cook & full confidence in the success of the Mackay Companies.

Yours sincerely,

T. JEFFERSON COOLIDGE, Jr.

EXHIBIT No. 1659-37

APRIL 12TH, 1905.

DEAR JEFFY: I had a long interview with Mr. Waterbury the evening before last, and I was about to write you when your letter arrived in the morning's mail. I am very sorry to learn that you have decided to resign as a Trustee of The Mackay Companies, but frankly speaking it is very much better for you to do so and lay up for awhile and give yourself a chance to come around. A man cannot be expected to do good work if he is under the weather.

A little rest and ease, I am convinced, is all that you need, and that we shall soon see you back in the saddle again. I appreciate your good wishes for the future and welfare of The Mackay Companies and let me assure you that your interests will be safe guarded.

Sincerely yours,

(Signed) CLARENCE H. MACKAY.

EXHIBIT No. 1659-38

WALL STREET, CORNER NASSAU, NEW YORK

JUNE 20TH, 1905.

MY DEAR MR. MACKAY: Now that the agreement of December 9th, 1903 has been satisfactorily modified, and the control has passed to the shareholders of the Mackay Companies, I deem it proper for me to tender my resignation as Trustee, which I herewith enclose.

In so doing I beg to assure you that I am in no wise withdrawing the interest I feel, and shall always have, in the purposes and success of the Mackay Companies. I have no firmer conviction than of the sound basis on which it was formulated: and no doubt as to its future under the conservative methods on which it was established, and which under your management and the efficient Officers of the Cable Company I am sure will prevail.

I may add that my decision has been reached after much deliberation, and most careful consideration of such differences, regarding methods and not purposes, as have arisen concerning which my own knowledge and experience of affairs has led me to conclusions different from my associates. I therefore feel that I should not continue as Trustee when I might be in full accord with the wishes of others.

I had intended to present my resignation in person, but the immense pressure of attending to details and arrangements for an early sailing tomorrow will prevent me from doing so.

With sincerest wishes for your welfare and continued success, believe me,

Yours faithfully,

JOHN I. WATERBURY.

CLARENCE H. MACKAY, ESQ.,

Pr. The Mackay Companies.

EXHIBIT No. 1659-39

JUNE 20, 1905.

MY DEAR MR. WATERBURY: I beg to acknowledge your letter of this date, which I have just received, enclosing your resignation as Trustee and officer of The Mackay Companies, with the request that same shall take effect July 11th, 1905.

I appreciate your good wishes for the future welfare of The Mackay Companies, and in return let me assure you that your interests, as well as those that you represent, will be watched over and zealously safeguarded.

Regretting that I have not been able to say good-bye in person, before you sail, believe me, my dear Mr. Waterbury,

Faithfully yours,

(Signed) CLARENCE H. MACKAY.

JOHN I. WATERBURY, ESQ.,
Manhattan Trust Company.

EXHIBIT No. 1659 40

OLD COLONY TRUST COMPANY

P. O. Box 363

BOSTON, July 3, 1905.

CLARENCE H. MACKAY, ESQ.,
253 Broadway, New York, N. Y.

DEAR CLARENCE: I have delayed handing in my resignation as a director of the Commercial Cable Company as I thought it better not to make my dropping out any more abrupt than possible. I am sailing for Europe, however, on the 11th of July, and as you are probably considering names for the trustees of the Mackay Companies and would like vacancies on the Commercial Cable Company board at the same time I hand you herewith my resignation as a director of the Commercial Cable Company. You have my best wishes, both for yourself and your companies. Kindly accept my resignation at the first opportunity.

Yours sincerely,

T. JEFFERSON COOLIDGE, JR.

(Enclosure.)

EXHIBIT No. 1659-41

JULY 6th, 1905.

DEAR JEFFY: I have yours of July 3rd, enclosing your resignation as Director of the Commercial Cable Company, and according to your request it will be placed before the Board at its next meeting.

I regret that you seem to think that I would wish to have your place filled on the Cable Board. Nothing was further from my mind. However, I suppose you know your own mind best, and your request will be complied with.

Hoping that your trip abroad will be beneficial in every respect,

Very truly yours,

(Signed) CLARENCE H. MACKAY,

T. JEFFERSON COOLIDGE, JR.,
*Old Colony Trust Company,
Amcs Building, Boston, Mass.*

EXHIBIT No. 1659-42

OLD COLONY TRUST COMPANY

P. O. Box 363

BOSTON, July 7, 1905.

CLARENCE H. MACKAY, ESQ.,
253 Broadway, New York, N. Y.

DEAR CLARENCE: I am very much obliged to you for your kind letter, but as I have resigned as trustee of The Mackay Companies I am not likely to give a proper amount of attention to the management of the Commercial Cable Company, and therefore thought it best to resign as director.

I should have returned, at the same time that I handed in my resignation, the frank which was given me as a director. I enclose it now.

With best wishes to Mrs. Mackay and yourself, I am,

Yours sincerely,

T. JEFFERSON COOLIDGE, JR

(Enclosure.)

EXHIBIT No. 1659-43

OLD COLONY TRUST COMPANY

P. O. Box 363

BOSTON, January 2, 1906.

F. P. FISH, Esq.,

American Telephone & Telegraph Company, 125 Milk Street, Boston, Mass.

DEAR MR. FISH: You have probably been informed that some 14,000 shares of American Telephone & Telegraph Company stock were transferred to Mr. Clarence H. Mackay last week. This is in accordance with the previous information that Mr. Mackay or the Mackay Companies was buying additional stock. Apparently this has nothing to do with stock owned by Mrs. Mackay or Mr. Vail, so that the Mackay interests must now have over 20,000 shares if this is correct.

Yours sincerely,

T. JEFFERSON COOLIDGE, Jr.

EXHIBIT No. 1659-44

[Source: President's Boston files]

253 BROADWAY,

New York, March 1st, 1906.

F. P. FISH, Esq.,

President, American Telephone & Telegraph Company, Boston, Mass.

DEAR MR. FISH: As you are aware, Mr. Vail for several years has represented our holdings of stock in the American Telephone & Telegraph Company, but owing to his absence, he has not been able to take much interest in the company, and I understand that he is quite willing to retire whenever desired. In view of the large amount of stock which I own and represent, I would suggest, if agreeable to you, that Mr. George M. Cumming, President of the United States Mortgage & Trust Company, who was formerly a Vice-President in your company, should be substituted for Mr. Vail at the coming annual meeting of your stockholders. I have been a director in the United States Mortgage & Trust Company for some time past, and have become well acquainted with Mr. Cumming. I have the highest opinion of his ability, as well as integrity, and I think that he not only would be a fit representative of my people's interests, but would also be an additional source of strength to the Telephone Company itself.

Faithfully yours,

CLARENCE H. MACKAY.

EXHIBIT No. 1659-45

MARCH 2, 1906.

CLARENCE H. MACKAY, Esq.,

*President, Postal Telegraph-Cable Co.,**253 Broadway, New York City.*

MY DEAR MR. MACKAY: Your letter of March 1 comes to hand today.

There are some reasons why it is more difficult than you can imagine to comply with your request at the present time. I will, however, consider the matter and talk it over with my people. You will undoubtedly hear from me again on the subject.

Always wishing to do what we can to meet your views, and with warm regards, I remain,

Very truly yours,

F. P. FISH, *President.*

[Source: President's File 42.]

EXHIBIT No. 1659-46

253 BROADWAY,

New York, March 3rd, 1906.

MY DEAR MR. FISH: I appreciate your favor of yesterday and your personal inclination to comply with my request that Mr. Cumming be substituted for Mr.

Vail to represent us as a director in your Company. I think you will agree with me that this request is very reasonable, for the following reasons:

This is not asking for a new Trustee, but is merely to substitute for Mr. Vail (who is no longer in position to actively represent us,) the President of a prominent New York Trust Company, whose personal and financial standing is the highest, and who was formerly Vice-President of your Company, and whose relations with you, I understand, are cordial.

The Mackay Companies, which Mr. Cumming would represent, is among the very largest of your stockholders.

By the large acquisition of Telephone stock by The Mackay Companies during the past six months, the market value of the stock has been maintained at about 140. This aided in two ways: first, to sell your \$100,000,000. of bonds at a fair price, and, second, to maintain the figure at which the bonds are convertible into your stock at 140, instead of a less figure, as it probably would have been if your stock had dropped to 130, as at one time it did. The value to your company of The Mackay Companies acquiring your stock was clearly recognized in recent statements issued in regard to your issue of bonds, prominence being given to the fact that The Mackay Companies, and I personally, and others, had recently purchased 25,000 shares of your stock.

It seems to me that such things as the above should be recognized, and that a request that Mr. Cumming be substituted in the place of Mr. Vail to represent us, is a reasonable one.

Yours very truly,

CLARENCE H. MACKAY.

F. P. FISH, Esq.,

President, American Tel. & Tel. Co., Boston, Mass.

[Source: President's Boston files.]

EXHIBIT No. 1659-47

MARCH 5, 1906.

Personal.

CLARENCE H. MACKAY, Esq.,

*President, Postal Telegraph-Cable Co.,
253 Broadway, New York City.*

MY DEAR MR. MACKAY: As I wrote you, I shall have to give very careful consideration to your suggestion, and doubt if it is possible to act upon it at the annual meeting, much as we should like to meet your views wherever we can. The fact is that up to within the last six months none of our people had any idea that Mr. Vail represented your interests on our Board. He was selected by my associates on the Executive Committee, with my own hearty cooperation, on the assumption that he himself was a large stockholder in the Company, and because of his old and intimate relations with the affairs of the Bell organization.

Under these circumstances, it does not seem as if he ought to be dropped from the Board, at least until his return to the United States, when the matter can be taken up with him face to face.

I have not consulted with any of my people as yet, for I have been away and have had no opportunity to do so. I write you upon the subject, however, that if you have anything further to say in addition to your full and complete letter of March 3, you may write me in time to have the matter before me on Wednesday morning of this week.

Very truly yours,

F. P. FISH, *President.*

[Source: Private Letter, Book V.]

EXHIBIT No. 1659-48

[Source: President's Boston files.]

253 BROADWAY,
New York, March 6th, 1906.

MY DEAR MR. FISH: Until I read your letter of yesterday, I was unaware that Mr. Vail was abroad.

I, of course, expected to obtain from Mr. Vail his approval of the change in the directory, before any such change should be made, but I wished at first

to obtain your approval. Mr. Vail, as you know, was made a director in your company about eight years ago, and that was long before you or I occupied our present respective positions. I am surprised that you should not have known that Mr. Vail represented our interests, because certainly, since my father's death in July, 1902, I have often heard it mentioned. Inasmuch as you prefer to take the matter up with him personally, it will be entirely satisfactory to me to await his return, especially as your board of directors have power to accept a resignation and substitute a new director to fill the vacancy. If Mr. Vail should not return for a considerable length of time, it might be well for either you or myself to communicate with him in regard to the subject.

Yours very truly,

CLARENCE H. MACKAY.

F. P. FISH, Esq.

*President, American Tel. & Tel. Co.,
Boston, Mass.*

EXHIBIT No. 1659-49

MARCH 7, 1906.

Personal.

CLARENCE H. MACKAY, Esq.,

*President, Postal Telegraph-Cable Co.,
253 Broadway, New York.*

MY DEAR MR. MACKAY: I thank you for your note of March 6, which comes to hand this morning, and am very glad that the matter can remain open for discussion after Mr. Vail's return.

You are in error in believing that Mr. Vail became a Director in our Company about eight years ago. He was first elected on March 25, 1902, and I was perfectly familiar with the conditions under which he was selected.

Very truly yours,

F. P. FISH, *President.*

[Source: Private Letter Book V.]

EXHIBIT No. 1659-50

[Source: President's Boston files]

Telephone: 1022 London Wall. Telegraphic address: "Tracollone, London."

62, LONDON WALL,
London, E. C., April 14, 06.

DEAR MR. FISH: I am in receipt of some copies of letters which have passed between yourself and Mr. Mackey. He thinks I do not represent his interests and wants *another* person in my place on the Board—I have always considered myself as a representative of all the shareholders. I do not understand that Mr. Mackey has any interests in the policy of the company—not common to all shareholders. If he has then certainly I do not represent them. As to my absence, had I considered for one moment that my usefulness to the Co., little as it may be, was only attendance at the Board meetings—I should have retired long ago. As to the individual interest in certain of the shares standing in my name, that is a personal matter between Mr. Mackey and myself or the Mackey estate which I will not go into—Of one thing however you may feel quite sure and that is that I am the absolute owner of a very respectable number of shares, quite enough to qualify me as "Director"—and far greater than the average holding in the Co.

In view of what has taken place, I will try, briefly, to explain that which has been the subject of some comment, my position as to the telegraph business and the acquisition of the Postal system—From the very beginning of the "Telephone" business, so far as I have had to do with the policy of the Co. it was directed

toward the ultimate absorption of the "Telegraph" business. I do not remember that I was alone in this, and as I believe and understand, this policy still exists.

I think Mr. Cochrane will recall a remark made by me—when the Western Union agreement was signed—to the effect that, if we were in the position I hoped we would be at the termination of the contract, that we should ask the W. U. for half of its capital stock for the privilege of continuing in business as one of our subordinate companies. Since that time the "Postal" has come prominently into the field. There is however a marked difference in the position and the business of the two companies.

The purpose of the Western Union is a *domestic* telegraph business—with an international cable business incidental to it—

The purpose of the "Postal" in the collection and distribution of an international cable business—with a domestic telegraph business incidental to it—

Any fight over the domestic telegraph business would result in disaster to the net earnings of the "Western Union" while it is doubtful if it would be particularly noticeable in the make up of the balance sheet of the "Mackey Cos."

The best time and the best way for the Telephone Co. to enter into the telegraph field once determined—It would have its own way.

From the nature of the business—the Executive Administration of the telegraph business should be distinct from that of the telephone business. Although the physical property might be the same.

To build up an efficient administration takes time and costs money—at the same expense these are many reasons why it would be better policy to buy—particularly if you were getting something that could not be easily reached in any other way—I do not claim to be stating any thing new—nor any thing in any way differing from the views of many if not all of the principal telephone managers.

For the above reasons I have thought that when the time was decided upon to start on the telegraph field—and if conditions were the same, that it would be good policy to acquire the Postal system, if it could be got as I believe it could at a cost which was fully represented by useful property, utilizing the organization to carry on the telegraph business and also use it to handle the opposition telephone business—

This done further steps to be determined very largely by the attitude taken by the W. U.

It seems to me that now the financial position of the company is settled and secure and the market for its securities is widening, that the time will soon come when this question will come to the front—whether the above plan is now the best or whether it could be carried out on the lines laid down may be a question—Happily it is not the only course open. The conditions at the time, must largely determine the course. It may perhaps needless to say that the interests of the Co. must surely be the determining factor—

I am very sorry to have taken up so much of your time—but I wished my position to be fully understood. Will you kindly show this letter to Mr. Cochrane and to Senator Crane.

THEO. N. VAIL.

Very sincerely,

EXHIBIT No. 1659-51

APRIL 23, 1906.

Personal.

HON. W. MURRAY CRANE,

United States Senate, Washington, D. C.

MY DEAR SENATOR CRANE: I enclose a copy of a letter from Mr. Vail about which I should like to talk with you when I next have the pleasure of seeing you.

Very truly yours,

F. P. FISH, *President.*

Enclosure.

[Source: Private Letter Book V.]

EXHIBIT No. 1659-52

APRIL 23, 1906.

*Personal.*HENRY S. HOWE, Esq.,
89 Franklin Street, Boston.

MY DEAR MR. HOWE: I enclose a copy of a letter from Mr. Vail which will interest you. Please return the copy to me, as I have other uses for it.

Very truly yours,

F. P. FISH, *President.*

Enclosure.

[Source: Private Letter Book V.]

EXHIBIT No. 1659-53

WASHINGTON, D. C., April 26, 1906.

MR. F. P. FISH,
15 Dey Street, New York, N. Y.

DEAR MR. FISH: Referring to your letter of the 23rd instant, with copy of letter received by you from Mr. Vail, I shall be glad to talk with you about this when I see you. I presume and hope that you have no intention of having Mr. Vail retire from the Board.

Sincerely yours,

W. M. CRANE.

[Source: President's Boston files.]

EXHIBIT No. 1659-54

253 BROADWAY,
New York, July 5th, 1906.

MY DEAR MR. FISH: Regarding our conversation of last Friday, I find by referring to your letter of March 7th that Mr. Vail was elected to your board on March 25th, 1902, which was prior to my father's death in the same year.

Very truly yours,

CLARENCE H. MACKAY.

F. P. FISH, Esq.,
President, American Tel. & Tel. Co., Boston, Mass.

[Source: President's Boston files.]

EXHIBIT No. 1659-55

OCT. 10, 1906.

FINANCE COMMITTEE OF THE MACKAY COMPANIES:

GENTLEMEN: In reply to your request for my opinion as to what effect a combination of the Western Union Telegraph Company and the American Telephone and Telegraph Company would have upon the telegraph business, I have to say,

The combined influences of the Western Union Company and the American Telephone Company would be very great and would undoubtedly be hurtful to the Postal Company's interest.

Such a combination would permit

The pole and wire facilities of both companies to be utilized, maintained and operated more efficiently and at a minimum cost.

Wires of both companies could be used to a considerable extent for both telegraphy and telephony, saving both companies from the necessity of stringing additional wires for some time to come.

The telegraph company has pole lines and wires to points not now reached by long distance service, which could be utilized by the telephone company and save expenditure of large sums of money for extensions, such as now contemplated by the telephone company to the Pacific Coast and elsewhere.

The use of the telephone wires for telegraph purposes would afford the telegraph company many more telegraph circuits for the handling of its business.

A similar use could be made by the telephone company of at least a portion of the telegraph company's wires, saving expense in construction and extension of lines.

Rights of way and pole privileges exchanged: Additional and superior rights of way on railroads.

Saving of expense for station linemen by using them for both properties.

Saving in pole rentals.

A combination telegraph and telephone service would be very attractive to the railroad companies and would no doubt influence railroad contracts.

Leased wires could be better maintained on account of the increased number of wires and routes.

Inventions owned or controlled by the telephone company could be used to advantage for telegraph purposes.

In the handling of telegraph business many economies could be effected which would reduce the cost of operation sufficiently to enable the telegraph rates to be reduced.

Many telephone pay stations could be utilized for the collection of telegrams, without any increased expense.

The telegraph company could close up many of its telegraph offices in hotels, and probably a number of branch offices in the larger cities, thereby saving rental and operating expense.

Rents in smaller cities and towns might be saved by occupying offices jointly.

Operating expenses could be reduced by employment of combination managers.

Telephones could be used for calling messengers for district service, etc., thereby saving expense of installing messenger callboxes.

In case the telegraph operators should strike, telephone could be used to some advantage for the handling of telegrams. This feature could be used as a strong argument against demands for increased wages.

Rather the strongest argument appealing to the telephone company would be the probable effect upon the public concerning the financing of competing telephone companies. The Bell Company would be rid of its fear of Western Union influence favoring such competing telephone companies. If the telephone company can make it difficult to finance competing companies, it would discourage new enterprises and make existing telephone competition much easier to deal with.

Just what effect such a combination between the Western Union and Bell interests would have upon the cable business, it is difficult to foretell. Inventions and improvements owned by the telephone company might be utilized to reduce the cost of operating and handling business over the ocean cables.

The foregoing is an opinion of what advantages of such a combination would accrue to the Bell Telephone and Western Union.

Such a combination could be used to cause The Mackay Companies to lose money on both its landlines and cables, and thereby force The Mackay Companies to its own terms.

The Postal Company now has about 12,400 offices reached only by telephone from which it exchanges telegrams. Of these about 8,000 are Bell telephone stations. These 8,000 telephone stations which now form a part of the Postal System are at points where the Western Union Company have no offices. These undoubtedly would be taken away from us.

Many other favors we are now enjoying from the Bell Company, such as exchange of pole line facilities and joint occupation of underground conduits in the cities throughout the country, might be withdrawn.

I think it safe to say that there is no likelihood of the Bell Telephone Company leasing or taking over the Western Union property on the 4% guarantee.

There are many reasons why a combination between the Bell Telephone and Postal lines would be a greater advantage and more desirable to the telephone company.

If an arrangement can be brought about by which the telephone company would take the Postal lines on a long term lease and a contract with the Commercial Cable Company for the collection and delivery of cablegrams, it would be to the great advantage of all concerned.

I consider such a combination the salvation of the Postal property and the removal of a possible drag upon The Mackay Companies.

I estimate that \$2,000,000 is the maximum net earnings we can expect under the most favorable conditions on our present plant at present rates.*

*The rates have been increased since this was written.

I strongly recommend that efforts be directed towards obtaining from the telephone company a guarantee of \$2,000,000 per annum and a fair proportion of any excess net earnings over \$2,000,000 from the operation of the Postal plant.

Such an arrangement, if made, would place the Western Union Company at the mercy of the combination and would place the combination in position where it could, if desired, dictate terms and obtain the control of the Western Union property at a low price.

Very respectfully,

WM. H. BAKER,
Vice Pres. & Genl. Mgr.

[Source: Folder, "Western Union Statistics and Suggestions," T. N. Vall's file.]

EXHIBIT No. 1659-56

[Source: Folder, "Western Union Statistics and Suggestions," T. N. Vall's file]

[Copy attached to letter of Oct. 10, 1906]

While a combination of the telephone and telegraph might still require separate organizations for the conduct of the telephone and telegraph business, it would seem possible and practicable to consolidate the local companies of the telephone in one organization with one management located at New York or Boston, and do away with the corps of officials of the local organizations, thus effecting uniform methods of operation and management and great saving in expense, inasmuch as each local organization now maintains a managing staff of presidents, vice presidents, secretaries, treasurers, general managers, electricians, engineers, &c., &c., all of whom are paid liberal salaries.

It is thought that such a combination of local telephone companies would result in a saving equivalent to a large percentage of the dividend now paid by the parent company.

If such a combination of the local companies could be effected, the parent company could afford to sell some of its present holdings in the local companies to prominent local firms and individuals, thus recovering local influence, which has, to a certain extent, been acquired by the opposition companies.

The most competent of the officers of the local organizations could either be made members of the Board of Directors of the parent company or members of an advisory committee.

Four men to be selected as the representatives of the Telephone Company in charge of four territorial divisions, to be known as the Eastern, Western, Southern, and Pacific divisions.

Those appointed to the advisory committee would be practical working men, conversant with the details of the business, and would prove of great assistance to the Board of Directors.

A combination of the local companies with uniform management and methods would result in many other economies.

The telegraph business would be incidental to the telephone business and would place the companies in position to handle it more efficiently and at minimum cost.

WM. H. BAKER.

EXHIBIT No. 1659-57

CLARENCE H. MACKAY,
President.

THE MACKAY COMPANIES,
(Boston, Massachusetts.)

253 BROADWAY,

NEW YORK, Dec. 24th, 1906.

MY DEAR MR. FISH: We would like to have a list of the stockholders of your

Company, with their addresses, in order to send to them a copy of the regular annual report of The Mackay Companies, which will be issued February 15th. Inasmuch as The Mackay Companies is by far the largest stockholder in your Company, we think it desirable that your stockholders should know who we are, and our condition, and we think it to the advantage of both institutions that this should be done.

I trust there will be no objection to this, especially as we understand that you will necessarily prepare such a list next month. We are quite willing to pay any expense connected with the preparation of the same.

Very truly yours,

CLARENCE H. MACKAY.

F. P. FISH, Esq.,

President, American Tel. & Tel. Co.

EXHIBIT No. 1659 58

PERSONAL.

DECEMBER 28, 1906.

CLARENCE H. MACKAY, Esq.,

The Mackay Companies, 253 Broadway, New York.

MY DEAR MR. MACKAY: I will see that you have a list of the stockholders of our Company, as requested in your letter of December 24.

Allow me to say that it seems to me unwise, under the present condition of public sentiment, to advertise the fact that one large corporation is interested to a substantial extent in the stock of another. I sincerely hope that you will refrain from emphasizing the fact of your holdings in the stock of our Company, in the interest of both of our companies.

Do you not agree with me that this course is wise?

Very truly yours,

F. P. FISH, *President.*

[Source: President's Letter Book 46.]

EXHIBIT No. 1659 59

THE MACKAY COMPANIES
(Boston, Massachusetts)

253 BROADWAY

CLARENCE H. MACKAY,
President.

NEW YORK, *December 31st, 1906.*

MY DEAR MR. FISH: I am pleased to receive your favor of the 28th inst. stating that you will see that I have a list of your stockholders as requested. I hardly think you will object to the very brief way in which our annual report will refer to your Company. Last February in our report we stated that we were one of the largest stockholders in your Company, and the effect was very good indeed. I think the public will welcome a closer alliance of the telegraph with the telephone. In Europe they are operated together for public convenience. Moreover, it is necessary for us to explain to our stockholders in a general way the purposes for which our outstanding preferred shares have been largely increased during the past year.

If agreeable to you, will you kindly request your Treasurer to insert in the list of stockholders the holdings of those who own one thousand shares or over?

Yours very truly,

F. P. FISH, Esq.

CLARENCE H. MACKAY.

EXHIBIT No. 1659-60

TRUSTEES

CLARENCE H. MACKAY.
WILLIAM W. COOK,
GEORGE G. WARD,
DUMONT CLARKE,
EDWARD C. PLATT.

CLARENCE H. MACKAY, *President.*
GEORGE G. WARD, *Vice President.*
EDWARD C. PLATT, *Treasurer.*
ALBERT BECK, *Secretary.*
WILLIAM W. COOK, *General Counsel.*

THE MACKAY COMPANIES
(Boston, Massachusetts)

253 BROADWAY

NEW YORK, *February 1st, 1907.*

FREDERICK P. FISH, Esq.,

*President, American Telephone and Telegraph Co.,
Boston, Mass.*

MY DEAR MR. FISH: The Trustees of The Mackay Companies have requested me to write you and call your attention to the fact that The Mackay Companies

owns over 70,000 shares of stock in your company and is by far the largest stockholder, its holdings being over four times those of your next largest stockholder. In view of this great interest which The Mackay Companies now has in your company, the Trustees feel that we should have three representatives on your Board, and they have designated Mr. Dumont Clarke, Mr. Pliny Fisk, and myself as their choice for such positions.

As you, of course, are aware, not one of your eighteen Directors, excepting Senator Crane, owns over 2,000 shares of your stock in his own right; at least that is what your books show, and we submit that it is proper that a stockholder who owns over 70,000 shares should be given representation on your Board. We would also call your attention to the fact that while your company controls the New York Telephone Company, yet the Western Union Telegraph Company which owns only 20% of the stock of the New York Telephone Company, has five out of the thirteen directors of that company. We submit that The Mackay Companies with its large holdings of stock in your company should have representation. We consider that we are entitled to it and expect that it will be granted.

Yours very truly,

CLARENCE H. MACKAY,
President.

[Source: President's Boston files.]

EXHIBIT No. 1659-61

FEB. 19, 1907.

DEAR MR. FISK:

The Mackay Cos have nerve.

Their interests are opposed to ours and of course at this time cannot secure representation.

I see no reason for more than acknowledging receipt of letter at this time but later on it may be well to record the fact of divergence of interests & actual injury to the Shareholders as a whole from any representation of Mackay Cos.

Yours sincerely,

T. JEFFERSON COOLIDGE, Jr.

[Source: President's Boston files.]

EXHIBIT No. 1659-62

FEBRUARY 13, 1907.

CLARENCE H. MACKAY, Esq.,

President, The Mackay Companies, 253 Broadway, New York.

MY DEAR MR. MACKAY: I have just returned from the west and am only now able to answer your letter of February 1.

I have not consulted with any of my Executive Committee or my Directors on the subject of your letter, but take the liberty of expressing at once my own personal views on the subject therein referred to.

Speaking personally, I should be glad to consult with your Company or with any of our large stockholders on the subject of Directors. We have a clear common interest in desiring the best available men for the position, and we cannot get too much help in selecting them. I feel, however, that each and all of the Directors should represent each and all of the stockholders, and that it is unwise to have any stock interest specifically represented on the Board.

If you will allow me to go a little farther, it seems to me that at the present time it would be a very great mistake for one large corporation to have a definite and specific representation on the Board of another large corporation. This probably would be true under any conditions, but is, in my opinion, of special weight in a case like the one we are now considering, where the two companies are to some extent competitors, and where your Company is interested in such a large number of other companies, including some of our most aggressive competitors.

I shall bring the matter before our Executive Committee and shall of course be governed by their views.

I should personally be glad to consult with you with reference to the make-up of the Board, although, as I now look on it, not on the theory that your Company, as a stockholder, is entitled to specific representation.

Allow me to add that I should regard it as an honor to have the three gentlemen whom you name on our Board of Directors, in so far as their character, standing and personality are concerned.

I shall later write you again on the subject.

Very truly yours,

F. P. FISH, *President.*

[Source: President's Letter Book 47.]

EXHIBIT No. 1659-63

[Source: President's Boston files]

CLARENCE H. MACKAY,
President.

THE MACKAY COMPANIES
(Boston, Massachusetts)

253 BROADWAY

NEW YORK, *February 19th, 1907.*

FREDERICK P. FISH, Esq.,

President, American Telephone and Telegraph Co., Boston, Mass.

MY DEAR MR. FISH: I am surprised to receive your letter of the 13th instant, because it is a new theory to me that, inasmuch as a director should represent all stockholders, a large stockholder should not, by reason of his large holdings, be entitled to name one or more directors. I gather that such is your reasoning, but it seems to me that that would mean that it would be better if the directors owned no stock whatsoever, which, of course, is contrary to the theory on which corporations, as well as co-partnerships, are organized.

In reply to your mention that we are interested in some of your most aggressive competitors, I would say that we own stock in six so-called independent telephone companies, our largest holding being in the Michigan State Telephone Company (and even that company is considered your ally), and our holding in that company is worth less than thirty thousand dollars, while our holdings in your company are worth nearly ten millions of dollars.

We repeat that we are entitled to representation on your board and shall not be content until we get it. We own more stock than all your directors combined.

We have men on our staff who were experts on poles and wires before the telephone was invented. We conduct our affairs without extravagance or waste, and we know where our money is coming from before we spend it. We believe our influence in these respects would do your company no harm.

There is another thing more important vastly than the above. We think you will agree with us that you will want several hundred millions of dollars fresh money during the next ten years in your business. How are you going to get it? There are various ways in which we can help you very substantially, and we have every reason for helping you, but how can we help you when you slam the door in our faces as you seem inclined to do?

Yours very truly,

CLARENCE H. MACKAY,
President.

[Source: President's Boston files.]

EXHIBIT No. 1659-64

WALL STREET, CORNER NASSAU, NEW YORK

FEBRUARY 21, 1907.

MY DEAR MR. FISH: I am in receipt of your favour of the 20th, advising that Mr. Drum is in town, and have written him as you suggested.

I also have your favour referring to the subject of Directors, and will bear your suggestion in mind.

I have also received your letter enclosing copy of letter to you. The letter is an amusing screed, and the suggestion one which I think should be firmly dealt with in the interest of our own company.

I trust you are very well. Kindly let me know when you are to be in New York again, and very greatly oblige,

Yours faithfully,

JOHN J. WATERBURY.

F. P. FISH, Esq.:

[Source: President's Boston files.]

EXHIBIT No. 1659-65

UNITED STATES SENATE,
Washington, Feb. 21, 1907.

Mr. F. P. FISH,
President, 125 Milk St., Boston.

DEAR MR. FISH: Your letter of the 20th instant is received enclosing copy of one which you received from President Mackay. If you have not already replied to the same I wonder if it would not be better to simply write Mr. Mackay that you would refer the matter to the directors and that you would advise him definitely later on. This course might serve to prevent an unpleasant and disagreeable correspondence.

Sincerely yours,

W. M. CRANE.

[Source: President's Boston files.]

EXHIBIT No. 1659-66

FEBRUARY 25, 1907.

CLARENCE H. MACKAY, Esq.,
President, The Mackay Companies, 253 Broadway, New York.

MY DEAR MR. MACKAY: Your letters of February 1 and February 19 have been submitted to members of our Board of Directors for consideration, and they will give the matter careful thought and authorize me to communicate with you in a few days.

Very truly yours,

F. P. FISH, *President.*

[Source: President's Letter Book 47.]

EXHIBIT No. 1659-67

MARCH 6, 1907.

JOHN I. WATERBURY, Esq.,
20 Wall Street, New York City.

MY DEAR MR. WATERBURY: At its meeting this morning, the Executive Committee resolved informally to ask Mr. Nathaniel Thayer, yourself and myself to consider the question of Directors. Mr. Thayer will be glad to help in the matter and plans to call on you at eleven-thirty Friday morning.

I shall be in Albany tomorrow. My address will be Ten Eyck Hotel. I do not want to be in New York Friday unless it is necessary. However, if you will telegraph me at the Ten Eyck Hotel that you think I should come to New York tomorrow night, I will do so.

The general feeling of the Executive Committee was that it would be better not to have bankers selected but first class commercial men of high standing, if we can get them; also that preference should be given to those who are active in New York rather than in Boston.

Very truly yours,

F. P. FISH, *President.*

[Source: Private Letter Book V.]

EXHIBIT No. 1659-68

DALTON, MASS., *March 9, 1907.*Mr. F. P. FISH, *President,*
Boston.

DEAR MR. FISH: Referring to our talk on the telephone to-day, I regret that I cannot attend the meeting Monday afternoon called for the purpose of considering the advisability of inviting Messrs. Pliny Fiske, Schoonmaker and McLean to become members of the A. T. & T. Co. board. I know of the first named gentleman by reputation, but the other two I have never heard of, and I trust that the directors will make very careful inquiry before extending an invitation to them. The directors ought, in selecting new associates, if possible invite such men as either have a thorough knowledge of the business, or that are at present or likely to become heavily interested in the Company. Possibly some one may have assurance that such may be the case with the gentlemen named. Personally I would like to know more about them, and will make careful inquiry at first opportunity.

I would like very much to have Mr. Cutler of New York become a member of the board, provided that he would be willing to serve, as his knowledge of the telephone business and reputation in New York would be of much value to the Company.

Sincerely yours,

W. M. CRANE.

[Source: President's Boston Files.]

EXHIBIT No. 1659-69

MARCH 11, 1907.

Hon. W. MURRAY CRANE,
Holland House, New York City.

MY DEAR SENATOR CRANE: All the Directors who are accessible met at my office this afternoon and considered the question of the vacancies on our Board. Mr. Thayer and myself reported that Mr. Schoonmaker and Mr. McLean had been named as desirable men and that it seemed, on the whole, wise to offer a position on the Board to one of the gentlemen suggested by Mr. Mackay in his letters, which you have seen. It was the general opinion of those present that of the men suggested by Mr. Mackay, Mr. Dumont Clarke was the best qualified, all things considered.

Your suggestion that Mr. Cutler should go on the Board was cordially received by all of us.

The Directors present finally united in suggesting that you, Mr. Thayer, Mr. Waterbury, and myself take the responsibility of selecting the gentlemen who shall be asked to become Directors.

There seemed to all of us some objections, not personal in character, to Mr. Pliny Fisk, the chief objection being that he is so active in Wall Street. It seemed to us as if a bank president of the type of Mr. Clarke would, on the whole, add more strength to the Board.

I suggest that you see Mr. Waterbury tomorrow and talk the matter over with him. I sincerely hope that you will let nothing interfere with your being in Boston on Wednesday, when we shall have a large number of important meetings in the afternoon. Wednesday forenoon Mr. Thayer will be very glad to talk matters over with you.

From a telephone conversation with Mr. Waterbury, I judge that he is inclined to think that just at this time it might be better to take a strong man not associated with our Company rather than Mr. Cutler. The more the subject was discussed this afternoon, the more all present seemed to agree that Mr. Cutler would be as likely to strengthen the Board as anyone who could be suggested. Among other things, it was suggested with great force that if he were on the Board, other New York men might be attracted to it and that such New York men as were on the Board would, through him, be in a position to get at the telephone business, in whole or in part, much more easily and completely than if there were no Director in New York thoroughly acquainted with telephone affairs.

As the easiest way of getting at the result, I think that I shall send to Mr. Waterbury a copy of this letter which I am writing to you.

Very truly yours,

F. P. FISH, *President.*

[Source: Private Letter Book VI.]

EXHIBIT No. 1659 70

MARCH 22, 1907.

DEAR MR. MACKAY: It is the opinion of those whom I am obliged to consult that it is not wise to elect upon our board too large a representation of another and to some extent a competing corporation. In this view I am obliged to agree. It seems particularly inexpedient to elect the President of that Company one of our Directors, much as we should regard it as an honor to have him on our board if the conditions of public sentiment were different.

We very much regret that Mr. Dumont Clarke was not inclined to accept our invitation to allow us to elect him as one of our Directors.

Sincerely yours,

(Signed) FREDERICK P. FISHL

CLARENCE H. MACKAY, Esq.:

[Source: President's Letter Book 47.]

EXHIBIT No. 1659 71

JULY 14, 1908.

JOHN I. WATERBURY, Esq.,

20 Wall Street, New York City.

MY DEAR MR. WATERBURY: There are a great many statistics and reasons why it would be advantageous to this company to acquire the Western Union Telegraph Company which I think would be rather unwise just at present to put on paper.

As far as the question between acquiring the Western Union and the Postal is concerned, while originally I was very strongly in favor of acquiring the Postal, it was at the time the Postal was capitalized at its true value and could have been acquired at that capitalization. The principal thing that the telephone company wants in acquiring a telegraph company is the organization. If it were not for the difficulty and expense of building up an organization which would extend over the whole country and which is necessarily distinct in certain lines from the telephone company, then the telephone company could probably equip itself for telegraphing as cheaply by building lines as by purchasing. In doing that, however, it would still leave formidable competitors in the field, which it is much better to remove.

It is practically impossible under present conditions to build up a rival telegraph company. The Postal Company may be considered as a telegraph adjunct to a cable company, created and supported for the purpose of delivering and collecting its cable messages, incidentally doing a telegraph business. Whether it is profitable or not under the conditions that exist is not a momentous question, as the profits on the cable business of the Postal Company are fully equal to taking care of both the cable and telegraph.

The Western Union, on the other hand, is more purely a telegraph company with a cable adjunct and under the conditions I doubt whether the Western Union derives any profits whatever from their cable business. The reason, therefore, for acquiring the Western Union, to begin with, rather than the Postal, is that we can get a system which will be immediately of more benefit to the telephone company than the Postal, and probably at less cost to the telephone company. Had the telegraph business of the country been undisturbed, it would have shown relatively as great, if not greater growth, than the business of any other public service corporation, and would have had sufficient increase in net profits to have taken care of all the increased capitalization created by all the companies. As it is, while the growth of the gross revenue has been considerable, the net revenue has actually decreased.

When the telephone business was in its developmental state and during the protracted negotiations between the Bell and the Western Union, it was proposed and for a time seriously considered by a large number of those in the Bell interests to divide the telephone business—the Bell taking the exchange business and limit it to a 15-mile radius, the Western Union to take the extra-territorial business as it was then called—that is, all business from points within to points without the 15 mile radius, and all business between the different exchanges. This would embrace all of what is now known as the toll and long distance business. While this business was as yet undeveloped, both

as to practicability or public demand, yet I had conceived a system embracing all subscribers and all exchanges forming a harmonious, universal and interdependent system controlled by one interest and one policy. I therefore opposed giving the Western Union this toll line business and finally won over to my side all of the dissenting elements of the Bell interests. Had the Western Union taken the toll line business, it would have been the controlling factor of the toll line business, and instead of a vanishing net revenue would have continued its expansion and held its relative position in the business field, providing it had managed its business with foresight, and by contract and other legitimate methods, kept control of the toll business. The development of the toll and long distance telephone business has destroyed completely as to net revenue and largely as to gross revenue, the short distance telegraph business, and it has cut very largely into the middle long distance business, taking all that class of business which can afford the cost. With long distance business, cost is largely a secondary consideration—embracing as it does some of the elements and advantages of the "telegraph" in its message and answer, the "mail" or "letter" without limit as to scope and extent, and of "travel" as to its quality of personal interview. The result has been the loss to the telegraph company of the greater part of its most profitable business.

An analysis of the business of the Western Union will show that in the past twenty years, which covers the development of the toll line telephone business, the net profits, after deducting the telephone revenue, have decreased very largely. During this same period, the Western Union has expended in construction many millions of dollars, about half of which has been taken from the so-called net revenue, and half provided by new capital.

I think you will agree with me that any expenditure for construction purposes which does not produce an increase of net revenue should not be capitalized, particularly if in the net revenue existed little or no margin after the payment of charges and dividends.

Under existing conditions, the Western Union can take care of necessary but unprofitable construction, and probably earn for dividends estimated on a safe basis, from a million and a half to two million dollars a year, not including its telephone revenue. During periods of great business activity, this would probably be increased temporarily.

Another cause of trouble in the future with the telegraph company is their competition for rights of way on railroads and privileges in hotels and public places. In the past twenty years, the relative expense of these items alone have fully doubled. Telegraph men who thoroughly understand the situation estimate that from two millions to five millions a year could be saved in these last two items alone. A large saving could also be made in the joint management of the plant department—that is, maintenance and construction—in the right of way department. The time is coming when it will be necessary for the telegraph company to absolutely own their right of way the same as railroads through the country between all the larger towns.

It has been suggested that the Western Union would ultimately have to be reorganized. I do not think that this, under any conditions which may arise in the near future anyway, is likely to come about, as under the existing conditions the Western Union could always earn enough to maintain itself and pay its fixed charges. A destructive competition by reducing the prices of messages between the larger towns would probably wipe out net earnings from the business, but no competition that exists or is possible except the telephone competition, can reach over 40%, and probably not over 30% of the total business of the Western Union, for while it is a fact that 80% of the telegraph business of the country originates or ends in a few of the larger cities, yet not in my opinion, to exceed 30% of it is between those large cities. This fact was the cause of all the failures in the past of telegraph promoters, who depended upon the business alone and not upon other reasons.

The telephone company reaching about twice as many points in the United States as the telegraph company by their wires, of course would not have this trouble to contend with.

The success of Mr. Gould and the Postal Telegraph Company was entirely due to other reasons.

The reason why this matter should be taken up immediately is that if the Western Union were controlled by the telephone company, all its lines could be utilized to a greater or less extent for toll lines and long distance telephone business. The telephone company will be obliged to spend a great many millions of dollars, fully as many as the telegraph company will cost, to provide toll

line facilities which could be largely avoided if it had the use of the Western Union facilities, or the control rather—as the mere use without the absolute control—would be of no account.

If the acquisition is delayed and this expenditure is made, then there would be an unnecessary duplication of plant which it would take years to utilize.

The only objection that I can see to the immediate acquisition is that it might affect the distribution and absorption of the convertible bonds among and by the investment public, and thus affect the future credit of the telephone company. There never will be a time, however, when the telephone company from its standpoint along will be as independent of the money market as it is today. The only question to be considered is whether the one balances the other; that is a matter that the financial people can better determine for themselves.

So far as business is concerned, all is showing well.

Five months of operating companies show—

Gross revenue.....	\$48, 814, 700	increase	\$3, 009, 300
Operating Expense.....	36, 038, 400	"	1, 974, 700
Net.....	12, 776, 300	"	1, 034, 600
Misc. Earnings.....	2, 057, 600	"	185, 600
Total Net.....	14, 833, 900	"	1, 220, 200

In the operating increased expenditure, \$1,367,800 was due to appropriation for maintenance partly unexpended, and \$213,800 to taxes.

The A. T. & T. Co. will show for the six months:

	1907	1908
Earnings.....	\$9, 736, 659	\$11, 792, 527
Expenses.....	1, 032, 570	1, 073, 770
Net.....	3, 704, 089	10, 718, 757
Net Traffic.....	1, 832, 114	1, 995, 865
Total net.....	10, 536, 203	12, 714, 622
Interest.....	3, 439, 792	3, 871, 676
Balance.....	7, 096, 411	8, 842, 946

The construction account of the associated companies is for the first five months largely inside the estimate and the allotments.

The cutting off of undesirable business—by enforced collections and more rigid supervision has made room for a better class of subscribers, giving an increase in revenue.

The toll line business is less in many cases than last year but that fluctuates with business conditions, except that the normal growth as a rule takes care of any reduction from other causes.

The revenue of the A. T. & T. Co. has not been brought about by any increase in dividends as they are in all cases at the same rate as last year. The rate of interest was increased last year and this has had a small effect on the increase; otherwise, it is a legitimate and not forced increase.

Very sincerely yours,

THEO. A. VAIL, *President.*

EXHIBIT No. 1659-72

(Fekschal).

Nov. 24th, 1909.

CLARENCE H. MACKAY, Esq.,

President, Postal Telegraph-Cable Co., 253 Broadway, New York.

DEAR MR. MACKAY: Yours of the 23d instant received.

The matter will receive immediate attention, and when I return to New York will take up the matter again. Meantime, if you could have gotten together all the matters of which you spoke to me, we will take them up and try and dispose of them.

Sincerely yours,

THEO. A. VAIL, *President.*

[Source: President's Letter Book 9.]

EXHIBIT No. 1659-73

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

15 Dey Street

NEW YORK, Nov. 30th, 1909.

Personal.

CLARENCE H. MACKAY, Esq.,

*President, Postal Telegraph-Cable Co.,
253 Broadway, New York.*

MY DEAR MR. MACKAY: Your letter of November 27th was forwarded to me in the country, and I have just returned and hasten to answer.

We regret very much that you feel compelled to take this action, but understand your reasons therefor. Any step looking to the protection of your own interests would of course be also to our own favor—therefore I have no suggestions to make. I would, however, like to see you before you make your plans and dispose of the matter, as I think it possible it may result to our mutual advantage.

Sincerely yours,

THEO. N. VAIL, *President.*

EXHIBIT No. 1659-74

DEC. 22D, 1909.

CLARENCE H. MACKAY, Esq.,

253 Broadway, New York.

MY DEAR MR. MACKAY: If agreeable to you, I will be glad to meet you at the Hotel Gotham (55th St. & Fifth Ave.) to-day at 4.30 o'clock.

Sincerely yours,

THEO. N. VAIL.

[Source: Binder entitled "T. N. Vail Personal May 27, 1907 to Jan. 21, 1911."]

EXHIBIT No. 1659-75

DEC. 23RD, 1909.

MY DEAR MR. VAIL: According to our conversation of last evening, I took up the question of the selling of our telephone holdings with my associates this morning, and they take the same view as previously held, namely, that in view of the fixed charge against us of 4% on our preferred shares, we are not justified in selling at less than the figure mentioned; namely, 143 plus the current dividend. As a matter of fact, we believe that if we cared to withdraw entirely for the present, we would have no trouble to sell this stock at 150 or better during the course of the coming year. However, we have no inclination to do that, for the present at least.

As to the other matters, I have had a talk with Mr. Nally, and he will take them up in detail with Mr. Hall at once. Will you kindly so inform Mr. Hall?

With the compliments of the season,

Yours very sincerely,

(Signed) CLARENCE H. MACKAY.

THEODORE N. VAIL, Esq.:

EXHIBIT No. 1659-76

CLARENCE H. MACKAY,
President.

THE MACKAY COMPANIES

(Boston, Massachusetts)

253 BROADWAY

NEW YORK, February 18, 1910.

THEODORE N. VAIL, Esq.,

President, American Telephone and Telegraph Co., New York.

MY DEAR MR. VAIL: Confirming our talk over the telephone this morning The Mackay Companies and The Commercial Cable Company give you the

option for ten days from date to purchase the 82,906 shares of American Telephone and Telegraph Company's stock which they own in the aggregate, at the price of one hundred and forty-three dollars (\$143) per share, plus a proportion of the present accruing dividend thereon, figuring it from January 1st to the date of payment, each month being taken by itself.

Yours very truly,

CLARENCE H. MACKAY, *President.*

[Source: Boston President's files, Postal Telegraph-Cable Co., Folder 11.]

EXHIBIT No. 1659-77

CLARENCE H. MACKAY,
President.

THE MACKAY COMPANIES
(Boston, Massachusetts)
253 BROADWAY

NEW YORK, *February 19th, 1910.*

THEODORE N. VAIL, Esq.,

President, American Telephone and Telegraph Company, New York.

MY DEAR MR. VAIL: In reply to your favor of yesterday inquiring as to the terms of payment in case you exercise your option, I think there will be no difficulty about it. With a substantial payment down, the balance might remain on the usual time collateral notes. The rate of interest would correspond to the dividend you would be receiving, which figures out a trifle over $5\frac{1}{2}\%$ on the purchase price—the same basis as the option. When you get that far along, if you will indicate to me your wishes, I think I can arrange it to your satisfaction, inasmuch as we have no present use for the money.

Yours very truly,

CLARENCE H. MACKAY, *President.*

[Source: Boston President's files, Postal Telegraph-Cable Co., Folder 11.]

EXHIBIT No. 1659-78

[From files of Federal Communications Commission]

WILLIAM A. GASTON, *President*

THE NATIONAL SHAWMUT BANK
Capital and surplus \$8,000,000

BOSTON, MASS., *April 27, 1909.*

THEODORE N. VAIL, Esq.,

*President, American Telephone & Telegraph Company,
15 Dey Street, New York, N. Y.*

DEAR SIR: I enclose at the request of Mr. Robert Winsor, a letter to the National Bank of Commerce, requesting that Bank to transfer from our funds with them tomorrow morning after clearing, \$7,500,000, to the credit of Messrs. Kidder, Peabody & Company. The funds necessary to transfer we are charging against the American Telephone & Telegraph Company, understanding that a voucher will be given us tomorrow morning by the Assistant Treasurer of your Company, as stated by Mr. Winsor over the telephone.

Yours very truly,

WILLIAM A. GASTON, *President.*

[Source: Former Boston files, room 1124.]

[Source: Former Boston files, room 1124]

BOSTON, MASS., *June 24th, 1909.*

Mr. T. L. CHADBOURNE, JR.,

30 Pine Street, New York.

DEAR SIR: In consideration of the efforts heretofore made and hereafter, to be made by you to acquire for me Western Union Telegraph Company capital

stock, I agree to purchase through or from you, shares of said Company up to but not exceeding in the aggregate one hundred thousand (100,000), and to pay you for the same Seventy-five Dollars (\$75) per share, plus Five Dollars (\$5) per share commission. All stock which you acquire you will deliver to me in accordance with the terms of this letter.

I agree to take such stock from you from time to time as you purchase the same, the stock to be tendered by you and taken by me at the office of Kidder, Peabody & Co., in New York City, in blocks of not less than ten thousand (10,000) shares at a time, unless I instruct you from time to time to make smaller deliveries. You, however, will always report to me the net price paid by you upon each purchase made by you within twenty-four hours after making same.

It is understood that I shall retain one-half of the difference between the net cost to you of all stock you may acquire and Eighty Dollars (\$80) per share, paying you the balance. Your net cost above to include commissions paid by you, but you are to pay no commission above the regular New York Stock Exchange rate.

The above and foregoing offer to purchase stock from you will remain open for three months from the date hereof, and your favorable reply will constitute a contract between us subject to written modifications only.

Very truly yours,

(Handwritten:) Endorsement: Referring to the above proposition accepted by Mr. Chadbourne today. I agree to take all of said stock (not exceeding 100,000 shares) you may offer to me at \$75.00 per share plus \$5.00 commission.

THEO. N. VAIL,
For the Am. Tel. & Tel. Co.

JUNE 24.

[Carbon copy of letter of Robert Winsor (for Kidder, Peabody & Co.) to T. L. Chadbourne, Jr., and Mr. Vail's endorsement.]

[Source: Former Boston files, room 1124]

Mr. ROBERT WINSOR,
Boston, Mass.

JUNE 24TH, 1909.

DEAR SIR: Replying to your proposition of June 24th, 1909, respecting purchase of Western Union Telegraph Company Capital Stock, up to but not exceeding one hundred thousand (100,000) shares, the same is accepted by me.

Very truly yours,

[Carbon copy of letter from T. L. Chadbourne, Jr., to Robert Winsor (for Kidder, Peabody & Co.) accepting proposition as stated in his letter of June 24, 1909, herewith.]

Mr. W. SHELMEKDINE,
American Telephone and Telegraph Company,
195 Broadway, New York, New York.

Room 1600, 195 BROADWAY,
New York, N. Y., March 30, 1937.

DEAR MR. SHELMEKDINE: In your letter of March 29, 1937, you state with respect to the advance of over \$22,000,000 by American Telephone and Telegraph Company to Kidder, Peabody and Robert Winsor in 1909, that "we feel that the records already made available to the Commission's investigators indicate what the Diamond State and the American Company received as a result of the transaction in question."

As the records made available to Commission staff do not clearly indicate the consideration received for this advance to Kidder, Peabody, are you prepared to state definitely that Diamond State Company and American Telephone and Telegraph Company received in exchange for this sum, stock of Western Union Telegraph Company? If so, will you kindly indicate how many shares of stock were so acquired.

Very truly yours,

N. R. DANIELIAN,
Financial and Utility Expert,
Telephone Investigation.

c/c John H. Bickley, Chief Accountant.
NRD: mh.

Exchange 3-9800

Comptroller

CHARLES A. HEISS
 Assistant comptrollers
 PIERRE W. SAXTON
 CLYDE UHRIG
 ALLAN B. CRUNDEN
 ROY B. SHAVER
 HARRY C. GRETZ

Chief statistician

SEYMOUR L. ANDREW
 Assistant to comptroller
 JOHN W. VAN SANT

AMERICAN TELEPHONE AND TELEGRAPH COMPANY,
 195 BROADWAY NEW YORK

April 14, 1937.

Mr. N. R. DANIELIAN,

*Financial and Utility Expert, Telephone Investigation,
 Federal Communications Commission,
 New York, N. Y.*

DEAR SIR: Referring to your letter of March 30 relative to acquisition of Western Union stock, the data summarized in the attached statement have been obtained from the records of the several companies involved in this transaction, which records have previously been made available to members of the Investigating Group of the Commission.

The records do not contain the definite statement that Western Union stock was received for the money in question, but they appear to justify a conclusion that the American Company in the end acquired Western Union stock for the amount of approximately \$22,000,000 advanced to Kidder, Peabody and Company and Robert Winsor, such shares being part of the total acquisition by the American Company from Atlantic and Pacific Company of 295,572 shares @ \$85 per share for a total amount of \$25,123,620, which evidently included acquisitions in addition to those related to the advances in question. We shall be glad to make these records available for your inspection if you so desire.

As a result of further exhaustive search in the last few days among some old papers in the files sent here from Boston, we have found a few additional papers having a bearing on this transaction. Included is a letter dated April 27, 1909 from the President of The National Shawmut Bank to Mr. Vail relative to a transfer of \$7,500,000 to the credit of Kidder, Peabody and Company. Another is a carbon copy of a letter dated June 24, 1909 from Robert Winsor of Kidder, Peabody and Company to T. L. Chadbourne, Jr., agreeing to purchase shares of Western Union stock not exceeding 100,000 shares, to which Mr. Vail added an endorsement agreeing on the part of the American Company to take the stock so acquired at a price of \$75 a share plus \$5 commission.

Assuming that you would want to review these papers, we are forwarding them herewith. The usual form of receipt covering them is also enclosed for your signature.

Yours truly,

W. SHELMERDINE.

Enclosure

DATA FROM VARIOUS RECORDS RE ACQUISITION OF WESTERN UNION STOCK

On April 28, 1909 the American Company vouchered and paid to Kidder, Peabody & Co. \$21,660,902, the voucher reading "amount advanced on account of loan to Diamond State Company to be accounted for."

On April 29, 1909 \$1,406,084 was repaid by Kidder, Peabody & Co. leaving a balance of \$20,254,818.

On April 29, 1909 the American Company vouchered and paid to Robert Winsor of the firm of Kidder, Peabody & Co. \$1,945,378, the voucher reading "advance on account of loan to Diamond State Company to be accounted for."

On April 30, 1909 a journal entry was made on the books of the American Company charging Diamond State Company with \$22,200,196 for "demand note of Diamond State Co., dated May 1, 1909 with interest at 5% per annum given in settlement of cash advanced during April, 1909" and crediting Kidder, Peabody & Co. with \$20,254,818 and Robert Winsor with \$1,945,378.

On June 1, 1909 the American Company paid to Diamond State Company \$41,092.68 and returned to the Diamond State Company that company's note for \$22,200,196 in return for which the American Company received a demand note of the Diamond State Company dated May 1, 1909 for \$22,241,288.68.

A report of the Diamond State Company headed "Stocks and Bonds Owned June 30, 1909" shows an item of \$22,241,288.68 under "Purchase of Securities

as per vote of Executive Committee." Neither the books of the Diamond State Company nor the votes of that company's Board of Directors or Executive Committee have been located and we do not find any other Diamond State Company report or record which gives additional information in respect of these transactions.

On November 16, 1909 the Executive Committee of the American Company approved a loan of \$22,625,000 made November 15, 1909 to the Atlantic and Pacific Telephone and Telegraph Company evidenced by 4% demand notes of that company and the cash book of the American Company shows the following entries relating to this transaction:

On the credit side:

Atlantic and Pacific Tel. and Tel. Co.—Loan ----- \$22,625,000.00

On the debit side:

Diamond State Co.—Notes----- \$20,150,000.00
 " " " —Interest----- 109,631.25
 " " " —C. D. & P. Notes----- 800,000.00
 " " " —Interest----- 5,880.00

21,065,511.25

Two checks drawn on the National Shawmut Bank:

One for----- \$59,488.75

One for----- 1,500,000.00

1,559,488.75

\$22,625,000.00

¹ This amount represented the balance of Diamond State notes held by A. T. and T. at this date.

Kidder, Peabody & Co. in a letter dated November 15, 1909 acknowledged receipt of the check for \$1,500,000. The amount of \$59,488.75 was entered as a receipt on the Atlantic and Pacific cash book.

The Atlantic and Pacific Company by journal entry charged the total amount, \$22,625,000, to the Diamond State Company and credited the Diamond State Company from the cash book with the \$59,488.75 received from the American Company. By further journal entries acquisitions of Western Union Company stock were recorded by the Atlantic and Pacific Company as follows:

Date Purchased	Consideration	Number of Shares	Price per Share	Amount
Nov. 15, 1909	Account of Diamond State Co. credited	266,068	\$85	\$22,615,780
Nov. 23, 1909	4% Demand Notes to A. T. & T. Co. \$2,300,000. Cash to Robert Winsor \$136,525.	28,665	85	2,436,525
Dec. 15, 1909	4% Demand Notes to A. T. & T. Co.	839	85	71,315
Total (three entries)		295,572		\$25,123,620

A transcript of the account with the Diamond State Company in the ledger of the Atlantic and Pacific Company follows:

Diamond State Company

1909				1909			
Nov. 15	Bills pay. (A. T. & T. Co.).	Jul. 1	\$22,625,000.00	Nov. 15	W. U. Stock..	Jul. 1	\$22,615,780.00
Nov. 16	Cash.....	3	50,268.75	Nov. 15	Cash from A. T. & T. Co.	2	59,488.75
Dec. 15	Securities Bal.	Jul. 1	300.00	Dec. 15	Cash.....	2	300.00
			\$22,675,568.75				\$22,675,568.75

On December 20, 1910 the records show that the American Company purchased from the Atlantic and Pacific Company the 295,572 shares of Western Union stock at its cost to Atlantic and Pacific Company, \$85 per share, (\$25,123,620) cancelling notes of the Atlantic and Pacific Company in like amount.

EXHIBIT No. 1659-79

[From files of Federal Communications Commission]

[Copy]

SEPT. 29TH, 1915.

N. T. GUERNSEY, Esq.,
General Counsel.

MY DEAR MR. GUERNSEY: This Company has been requested to participate in the proposed loan to Great Britain and France, which is now being placed in this country, on the grounds that this loan is necessary to the continuance of the present industrial conditions created by the state of affairs in Europe.

It is urged that our interest in this situation should warrant our serious consideration, and if no objection is found, to a possible participation.

Please consider this seriously from a legal standpoint whether or not we are warranted should we desire to participate in this loan.

Sincerely yours,

(Sgd.) THEO. N. VAIL.

(Handwritten:) Papers filed with Mr. Buckland 10/7/15. #604608.

[Source: Mailing Department files.]

NATHANIEL T. GUERNSEY,
General Counsel.
CHARLES D. N. COLE,
General Attorney.

THOMAS J. PERKINS,
Assistant Attorney.

[Copy]

AMERICAN TELEPHONE AND TELEGRAPH COMPANY (MR.)

15 Dey Street

NEW YORK, October 1, 1915.

THEODORE N. VAIL, Esq.,
President.

MY DEAR MR. VAIL: I have before me your note of the 29th ultimo, with reference to the participation of this company in the proposed loan to Great Britain and France, and have carefully considered the question from the legal point of view.

Under its charter, this company has not the right to engage in the business of loaning money. As incidental to its general powers, it, however, has the right from time to time to temporarily invest such surplus funds as it may have on hand. Under this incidental power the company, if it had an idle surplus, might invest in the securities to be issued in furtherance of this loan. The question becomes then one of fact, viz., has the company idle surplus funds for which it is in good faith seeking a temporary investment, and is this such an investment as the company would seek for such funds?

The assumption that a failure of the loan would affect business conditions here and therefore indirectly affect our business goes hardly to the question whether the company has the power to make investments of this character, but rather, (granting the existence of this power as I have stated it) to the question whether the company should make this particular investment. It may properly be a factor in the determination of that question, just as would be the rate of interest, the term of the loan, the fact that the bonds are to be listed, and other like matters.

Yours sincerely,

(Sgd) N. T. GUERNSEY.

[Source: Mailing Department files.]

OCTOBER 1ST, 1915.

HENRY S. HOWE, Esq.,
89 Franklin Street, Boston, Massachusetts.

MY DEAR MR. HOWE: The question of our Company participating in the loan to England and France has been before the Executive Committee and will again be called to their attention at the next meeting.

I asked our General Counsel to prepare an opinion on the matter, and beg to enclose herewith copy of the same for your consideration.

Sincerely yours,

(Sgd) THEODORE N. VAIL, *President.*

(Handwritten:) Above letter sent to the following: Ledyard, Lewis Cass; Adams, Charles Francis; Waterbury, John I.; Crane, W. Murray; Baker, Geo. F.

[Source: Mailing Department files.]

23 WALL STREET,
New York, August 21, 1916.

DEAR MR. VAIL: Aside from being very gratifying to us, it also would be very helpful to the general cause if you could see your way clear to buy say \$5,000,000 of the new British Two Year Loan. You know it will net a shade better than 5½% and is as good and refined as gold. Any financing in connection with this will be looked after with pleasure.

Sincerely yours,

H. P. DAVISON.

T. N. VAIL, Esq.,
15 Dey Street, New York City.

[Source: Executive Dep't., files in room 2632A.]

D.25

AMERICAN TELEPHONE AND TELEGRAPH COMPANY,

195 BROADWAY,
New York, Aug. 22, 1916.

MR. MILNE:

Our present estimates indicate that without any extraordinary expenditures we shall have cash at Dec. 31, 1916, of \$15,000,000 to \$18,000,000 of which about \$9,000,000 will be immediately required in January for interest and dividends. Any extraordinary expenditures as for British 2 yr. loan or for extensions to 195 Broadway, or for Chicago Tunnel property will have to be specially financed and in any case we shall have to finance by next January or February for ordinary requirements.

DuBois.

[Source: Executive Dept't., files in room 2632A.]

[Copy]

AUGUST 23, 1916.

H. P. DAVISON, Esq.,
c/o Messrs. J. P. Morgan and Company,
23 Wall Street, New York, N. Y.

DEAR MR. DAVISON: I am sending you a copy of a memorandum from Mr. DuBois, in reference to yours of August 21st.

I will take up the matter at our next Executive Committee meeting or so soon as I can personally confer with some of the members.

Very sincerely,

(Sgd.) THEO. N. VAIL, *President.*

(Handwritten:) To Mr. Bethell from Mr. Vail.

(Handwritten:) Sept. 11, 1916. Mr. Vail & Mr. Bethell say to file—matter is past before any meeting is held over.

Enclosure:

[Source: Executive Dep't., files in room 2632A.]

J. P. MORGAN & Co.
Wall St. corner Broad.
New York.
DREXEL & Co.
Philadelphia.

MORGAN, GRENFELL & Co.
London.
MORGAN, HARJES & Co.
Paris.

NEW YORK, Nov. 2, 1916.

THEODORE N. VAIL, Esq.,

President, American Telephone & Telegraph Co.,

15 Dey Street, New York.

MY DEAR MR. VAIL: Before Mr. Davison left today to be absent until Monday, I understand he had some conversation with you about the possible purchase by the Telephone Company of \$5,000,000 of the British Government Three and Five Year 5½% Notes, but that no decision on the matter could be reached until next week.

Inasmuch as we are closing the books on Saturday morning, we are subscribing for \$5,000,000 of the bonds, divided equally between the two maturities and will hold these until your meeting next week, when if you wish to make a purchase on the basis of the issue prices we shall be glad to turn the notes over to you. If you decide not to take any action in the matter it will be quite satisfactory to us to keep them for our own account.

Yours very truly

T. W. LAMONT.

AMA/HPC.

[Source: Executive Dep't., files in room 2632A.]

Nov. 4TH, 1916.

T. W. LAMONT, Esq.,

Cor. Wall and Broad Street,

New York City.

MY DEAR MR. LAMONT: Yours of November 2d has been received. I told Mr. Davison that it was doubtful if we were in a position to tie up that amount of cash for any period.

Much to my regret, further consideration makes it impossible for me to recommend the matter to our Committee.

Sincerely yours,

(Sgd.) THEO. N. VAIL, *President.*

[Source: Secretary's files.]

Form V 12

EXECUTIVE DEPARTMENT CORRESPONDENCE FILE

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

15 Dey Street, New York

(Handwritten:) 2d & final papers. 11/24/16 Copy sent to Mr. Guernsey.
T D. B.

NOVEMBER 23, 1916.

MESSRS. J. P. MORGAN & Co.,

23 Wall Street,

New York, N. Y.

GENTLEMEN: In anticipation of its needs for funds for some time to come, the American Telephone & Telegraph Company would like to have you and your associates make us an offer for about \$80,000,000 30-year Collateral Trust 5% Bonds, to be callable at 105 and accrued interest on any interest date and to have provision for an annual sinking fund of 1% of the maximum amount of bonds at any time issued to be used in the acquisition of bonds up to or at the callable price.

The collateral originally deposited would be stock of our subsidiary, licensee and connecting companies, which have been continuously dividend paying over a long period and will consist of:

New England Tel. & Tel. Co. stock.....	(240)
New York Telephone Co. stock.....	(850)
Southern Bell Tel. & Tel. Co. stock.....	(215)
Southwestern Bell Tel. System stock.....	(350)
Pacific Tel. & Tel. Co. stock	(230)

(1,885)

to be pledged and maintained at 133⅓% value for each 100% par of bonds and in the proportion that the number in brackets opposite each company's name bears to the total of the numbers (1885). By mutual consent, these proportions might be varied and other stocks substituted. The valuation would be determined by agreement between you and ourselves, failing which, by arbitration.

The trust deed would be drawn in favor of some New York Trust Company to be mutually satisfactory and would follow substantially the lines of the old 4% collateral indenture of 1899, without the limitations as to mortgages by subsidiary companies, and without the stipulation of the deposit of proportionate shares of securities of sub companies. The details of the indenture would be such as would be mutually satisfactory.

The aggregate amount of bonds of the American Telephone & Telegraph Company outstanding at any time shall not exceed the par value of the then outstanding capital stock of the Company.

We should be glad to have you make us a proposal to purchase the above bonds for delivery on or shortly after December 1st, at such time as might be mutually satisfactory.

Sincerely yours,

(Sgd.) THEO. N. VAIL, *President*.

[Source: Executive Dep't., files in room 2632A.]

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

TREASURY DEPARTMENT

In response to request of March 16, 1937, of N. R. Danielian of the Federal Communications Commission as to the date on which the A. T. & T. Co. received the proceeds from the sale of the Thirty Year 5% Collateral Trust Bonds of 1946, and also as to the bank balances on the day prior and on the day of the receipt of the money from the sale of the 30 Yr. 5s of 1946, in the banks on which the checks were drawn by A. T. & T. Co. for the Company's participation to the extent of \$20,000,000 in a loan¹ to the British Government on December 14, 1916, the following data are provided:

1. A total of \$75,733,333.33, which included interest for 12 days at 5%, was received by A. T. & T. Co. from J. P. Morgan & Co. on December 13, 1916, from the sale of the Company's 30 Yr. 5% Bonds of 1946, \$49,226,666.67 of which was credited to the Company's account with J. P. Morgan & Co. and the rest, \$26,506,666.66 was credited to the Company's account with National Shawmut Bank of Boston.

2. A. T. & T. Co. bank balances in banks on which the checks were drawn for the Company's participation in loan to British Government were as follows:

Bank	Balance at close of business on 12/12/16	Balance at close of business on 12/13/16
J. P. Morgan & Co.-----	\$1,296,200.57	\$22,014,817.21
Bankers Trust Co.-----	1,696,895.26	5,373,031.92
1st Nat. Bk. of N. Y.-----	1,312,186.48	5,012,186.48
Nat. Bank of Commerce-----	1,503,666.79	5,303,666.79
Columbia Trust Co.-----	1,014,964.20	3,014,964.20
Guaranty Trust Co.-----	1,458,142.67	4,958,142.67
National City Bank-----	1,024,030.05	4,621,030.05

MARCH 22, 1937.

¹ Repayment of this obligation which was a demand loan was made February 5, 1917.

Duplicate voucher

Voucher No. 12 95

AMERICAN TELEPHONE AND TELEGRAPH COMPANY,
December 14th, 1916.

P. To J. P. MORGAN AND COMPANY,
Wall Street, New York.

For participation of this Company in a special 6% demand loan to the British Government, as arranged with you by President Vail----- 20,000,000.00 116 20,000,000.00
(Handwritten:) This rate changed to 5% in Jan. 1917. See Voucher Clerk's File #190.

Loan to be made on December 14, 1916.

X.

Entered notes receivable book—F. J. S. Tunison.

Ex. Com. 190.

(Handwritten:)

(Copy to Mr. ----- 3-12-37.)

Twenty million----- 20,000,000.00

[Source: Comptroller's Dep't.]

[Source: Comptroller's file]]

[Copy]

NM

December 14, 1916.

MESSRS. J. P. MORGAN & Co.,
Wall & Broad Sts., New York, N. Y.

DEAR SIR: I enclose herewith cheques as noted below amounting to \$20,000,000. in payment of the participation of this Company of \$20,000,000. in your six per cent. demand loan to the British Government, as arranged with you by President Vail.

Kindly send to me your acknowledgment of this payment, and oblige

Yours very truly,

G. D. M., Treasurer.

Enclosures.

J. P. Morgan & Co-----	\$3,000,000
Bankers Trust Co-----	3,000,000
First Nat'l Bank, N. Y-----	3,000,000
Nat'l Bk. of Commerce, N. Y-----	3,000,000
Columbia Trust Co-----	2,000,000
Guaranty Trust Co-----	3,000,000
National City Bank-----	3,000,000
	\$20,000,000

(RETURN TO COMPTROLLER'S FILE 422A)

[Copy]

DECEMBER 20, 1916.

I hereby certify that the following is a true and correct copy of a resolution adopted by the Executive Committee of the American Telephone and Telegraph Company at a meeting held December 20, 1916:

Resolved: that the action of the president in taking in behalf of the Company, on December 14, 1916, a participation of \$20,000,000 in a special 6 per cent. demand loan to the British Government secured by the deposit with J. P. Morgan and Company, as trustees, of American securities having an estimated value equal to the face amount of the loan, and in addition, of the obligations of foreign governments having an estimated value of 33⅓ per cent. of said amount, be ratified and approved.

(Signed) A. A. MARSTERS,
Secretary.

[Source: Comptroller's Department, file 422A.]

J. P. MORGAN & Co.
Wall St. corner Broad.
New York.
DREXEL & Co.
Philadelphia.

MORGAN, GRENFELL & Co.
London.
MORGAN, HARJES & Co.
Paris.

NEW YORK, *December 30th, 1916.*

AMERICAN TELEPHONE & TELEGRAPH Co.,
New York City.

DEAR SIR: We enclose herewith our check to your order for \$60,000, being interest at the rate of 6% *per annum to January 1st, 1917*, on your participation of \$20,000,000. in a special demand loan to the British Government.

Kindly acknowledge receipt.

Yours very truly,

J. P. MORGAN & Co.

Enclosure.

(Handwritten:) Post from cash.

[Source: Secretary's files.]

NM
JANUARY 2, 1917.
836299

MESSRS. J. P. MORGAN & Co.,
Wall St. cor. Broad,
New York, N. Y.

GENTLEMEN: I have your favor of the 30th ult. enclosing cheque to the order of this Company for \$60,000. covering interest at the rate of 6% per annum to January 1, 1917 on our participation of \$20,000,000. in a special demand loan to the British Government.

Yours very truly,

[Source: Secretary's files.]

_____, *Treasurer.*

Return to Comptroller's File 422B

Mr. U. N. BETHELL,
Senior Vice President.

JANUARY 24, 1917.

DEAR SIR: We are advised by Messrs. J. P. Morgan and Company that the rate of interest on our participation on December 14, 1916 to the extent of \$20,000,000. in the loan to the British Government has been reduced from 6% to 5% per annum effective January 9, 1917.

The resolution of the Executive Committee of December 20, 1916 approves the rate of 6%.

This is submitted for appropriate action by the Executive Committee.

Yours truly,

_____, *Comptroller.*

HBS/R

[Source: Comptroller's Department, file 422B.]

J. P. MORGAN & Co.
Wall St. corner Broad.
New York.
DREXEL & Co.
Philadelphia.

MORGAN, GRENFELL & Co.
London.
MORGAN, HARJES & Co.
Paris.

NEW YORK, *February 5th, 1917.*

Strictly confidential.

AMERICAN TELEPHONE & TELEGRAPH COMPANY,
New York City.

DEAR SIR: We credit your account today \$20,101,666.67, being repayment of your participation of \$20,000,000 in a special demand loan to the British Government with interest at 6% per annum to January 9th, 1917, and thereafter at 5% per annum.

Yours very truly,

J. P. MORGAN & Co.

(Written in:)

Int:

8 ds. @ 6%	-----	26,666.67
27 ds. @ 5%	-----	75,000.
		<hr/> 101,666.67

EXHIBIT No. 1659-80

[From files of Federal Communications Commission]

OCT. 21ST, 1918.

HON. NEWTON D. BAKER,

Secretary of War, Washington, D. C.

MY DEAR SIR: Some two years ago, at your request, we gave Mr. Walter S. Gifford a leave of absence from his duties here in order that he might serve for a time as Director of the Council of National Defense.

The changes in our organization made necessary by war service of many of our people and the carrying out of our obligations under our agreement with the Post Office Department with respect to Federal control of the telephone service make it necessary that we strengthen our force along lines in which Mr. Gifford is particularly qualified by his past experience with us to take an important part.

If it is possible for him to be spared from his present work for the Government, I would respectfully request that he be released so that he can return to us at as early a date as your convenience will permit.

Sincerely yours,

THEO. N. VAIL, *President.*

[Source: Binder entitled "T. N. Vail, Corp. Corr. Aug. 1, 1918 to Dec. 16, 1918."]

EXHIBIT No. 1659-81

[From files of Federal Communications Commission]

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

DIRECTORS' MEETING, JUNE 18, 1919

Resolved: that Mr. U. N. Bethell be and is hereby given leave of absence for one year, with pay, and that during such period the powers and authority heretofore possessed by him as Vice President be suspended.

[Source: Secretary's files.]

[Source: Secretary's files.]

AGREEMENT BETWEEN U. N. BETHELL AND A. T. & T Co., JUNE 20TH, 1919

U. N. Bethell agrees:

- (1) To render such services to the Bell System within the State of New Jersey as may be reasonably required by the A. T. & T. Board of Directors or its Chairman, between July 1, 1919, and June 30, 1920.
- (2) To resign any office or position that he may hold in any Bell company when so requested by the A. T. & T. Board of Directors or its Chairman, and waive all claim for compensation for services rendered after July 1, 1919, in connection with any such office or position.
- (3) To transfer and deliver to A. T. & T. upon signing of this contract, the following securities:

- 1 Share Cleveland Telephone Co.
- 10 Shares Central Union Telephone Co.
- 150 Shares Chicago Telephone Company.
- 150 Shares (Preferred) Michigan State Tel. Co.
- 37 Shares Mountain States Telephone Co.
- 100 Shares New England Tel. & Tel. Co.
- 200 Shares (Preferred) Western Electric Co.

- (4) Relinquish and surrender all claims that he now has or may hereafter have against or upon any company in the Bell System under or because of the plan for disability benefits and pensions of such company.

In consideration of the foregoing, and in payment of traveling and incidental expenses incurred or to be incurred by U. N. Bethell on the company's account,

to June 30, 1919, A. T. & T. Company agrees to pay to U. N. Bethell salaries in full as heretofore fixed by the various companies in the Bell system to June 30th, 1919.

(2) To pay to U. N. Bethell, at the First National Bank in Montclair, N. J., without any deduction for taxes imposed by the State of New York, the sum of \$155,600,000, payable as follows: Upon signing this contract, \$65,600; July 1st, 1919, \$7,500; August 1st, 1919, \$7,500; September 1st, 1919, \$7,500; October 1st, 1919, \$7,500; November 1st, 1919, \$7,500; January 1st, 1920, \$15,000; February 1st, 1920, \$7,500; March 1st, 1920, \$7,500; April 1st, 1920, \$7,500; May 1st, 1920, \$7,500; June 1st, 1920, \$7,500.

(3) To buy from an insurance company or companies, acceptable to U. N. B., and deliver to him on or before July 1st, 1919, a policy or policies in his favor and behalf, providing for the payment to U. N. B., or his assigns, an annuity or annuities, aggregating \$30,000.00 per year payable in equal monthly installments at the end of each month after July 1st, 1920, during the life of U. N. B.

(4) To defend U. N. B. at its expense in actions brought by C. H. Venner, now pending, and in any action or proceeding that may be brought against U. N. B., by any one else, except the Company itself, because of any action of U. N. B. as director or officer of any Bell Company, or when acting in any other capacity by the authority of the Board of Directors of the A. T. & T. Company.

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

EXECUTIVE COMMITTEE, JULY 2, 1919

Resolved: that the officers be authorized to purchase, for \$64,800, the following shares of capital stock:

	Shares;
The Cleveland Telephone Company	1 "
Central Union Telephone Company	10 "
Chicago Telephone Company	150 "
Michigan State Telephone Co., preferred	150 "
The Mountain States Tel. & Tel. Co.	37 "
New England Tel. & Tel. Co.	100 "
Western Electric Co., Inc., preferred	200 "

[Source: Secretary's files.]

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

EXECUTIVE COMMITTEE, JULY 2, 1919

Resolved: that the Company will, at its own expense, defend any actions now pending or hereafter brought against Mr. Union N. Bethell growing out of or based upon any action by him as director or officer of this Company, or of any other company constituting a part of the Bell System, or upon anything done by him in any other capacity by authority of the Board of Directors of the American Telephone and Telegraph Company (except any such action brought by this Company or any such other company), and that it will indemnify and save the said Union N. Bethell harmless as against all such actions.

[Source: Secretary's files.]

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

EXECUTIVE COMMITTEE, JULY 2, 1919

Resolved: that the full pay granted to Vice President Bethell by resolution of the Board of Directors dated June 18, 1919, during his leave of absence, shall be construed to include, in addition to his salary as Vice President of this Company, the salaries paid to him by associated and subsidiary companies of the Bell System at the rates in effect on said date, upon the discontinuance of such salaries by said companies, and that the payments to be made to Mr. Bethell by virtue hereof and of said resolution shall include his salaries for the full month of June, 1920.

[Source: Secretary's files.]

Duplicate voucher

Voucher No. 7. 6

AMERICAN TELEPHONE AND TELEGRAPH COMPANY,

July 3rd, 1919.

158-01

To U. N. BETHELL,

New York;

For purchase of following shares of capital stock:

	Shares			
Cleveland Telephone Co-----	1	"		
Central Union Tel. Co-----	10	"		
Chicago Telephone Co-----	150	"		
Mich. State Tel. Co.—Pref-----	150	"		
Mtn. States Tel. & Tel. Co-----	37	"		
New England Tel. & Tel. Co-----	100	"		
Western Elec. Co., Inc.—Pref-----	200	"	64, 800. 00	106 64, 800. 00

Ex. Com. 313. D. L. F.

Entered stock book. B. Ronan.

Sixty four thousand eight hundred----- 64, 800. 00

[Source: Comptroller's Dep't.]

EXHIBIT No. 1659-82

D28A

[From files of Federal Communications Commission]

AMERICAN TELEPHONE AND TELEGRAPH COMPANY,

December 19, 1924.

Mr. HENRY S. HOWE,

89 Franklin Street, Boston, Massachusetts.

MY DEAR MR. HOWE: With reference to the problem before the Committee which was appointed at the Tuesday meeting, I think it may be worth while to tell you in some detail what I have had in mind, which led me to suggest the present consideration of the subject and the appointment of a Committee.

Considering it first as an organization problem. This business of ours is in a class by itself. I will not rehearse figures with which the Committee is entirely familiar, but will emphasize one or two things.

Among the 180 odd corporations which the Company directly and indirectly controls are, of course, large and small operating companies. There is a manufacturing company with sales, I think, equalling or exceeding any other electrical manufacturing company in 1924. There are foreign manufacturing companies employing about 15,000 people and producing merchandise this year to the value of about \$40,000,000. There are other kinds of business, including realty corporations and even a small railroad. It is a very large and somewhat complicated business. The whole nation is interested in the efficiency of its operation as well as about 350,000 stockholders and as many employees. The business has history and policies and character and morale which would be jeopardized if you ever again had to go outside of the organization for a President. We have, I believe, a very efficient and effective organization with all of the elements of self-continuation. Since the election of Mr. Jewett on Tuesday, I can say that in our headquarters' organization there is either a younger or an older man technically qualified and experienced, who could carry on, at least temporarily, the work of any department if that department's chief were removed.

That is true as to the position of chief responsibility, assuming that either Mr. Gifford or I could carry the load without the other. However, it seems reasonable to me that, before I lose the ability to carry the load, to avoid a situation where our dependence would be solely upon him, Mr. Gifford should be put in a position to be thinking about and finally establishing in position, someone to take over the responsibility in the event of anything happening to him.

You will see that I am greatly impressed with the responsibilities of the position and the desirability of providing for a succession from within the organization.

Then there is the question of finances and public relations. Because Mr. Vail had arranged for the election of a President when he was supposed to be well and vigorous, there was hardly a ripple of anxiety about the administration of the business when he died. It seems to me that we should try to avoid anything like a change in administration. It should be a continuous administration and the transfer of authority and responsibility should be made at the right time and in the right way as well as to the right man. I have always believed that for the benefit of this business, the change should be gradual—that the President should become Chairman of the Board at the summit of his powers and then as he becomes less necessary to the business, should gradually fade from the picture while his successor is as gradually filling it.

Finally, there is the personal side of the subject and that is the side which prompted me particularly to ask special study of it by a committee. There is no more important question can come before the Directors than the administration and it seems to me that it demands impersonal consideration. I am personally interested and being personally interested, it seems proper that I should avoid making an official recommendation, but should put the Directors in the way of coming to an independent conclusion. Mr. Gifford and I will be glad to be questioned. I have asked Mr. Houston to answer any questions without reserve.

I would suggest the consideration of the following questions but, of course, without the suggestion of limiting the Committee to them:

Is the plan of a gradual change desirable?

Should we take some action soon?

If so, when should we change the By-laws so as to provide for a Chairman of the Board?

When should we elect him?

Should there be any division of authority and responsibility and if so, what should it be?

What, if any, readjustment of salaries should be made?

I am sending a copy of this letter to Messrs. Adams and Alexander.

Yours very truly,

[Source: H. B. Thayer's personal files.]

D28A

AMERICAN TELEPHONE AND TELEGRAPH COMPANY.

December 29, 1924.

Mr. HENRY S. HOWE,

89 Franklin Street, Boston, Massachusetts.

DEAR MR. HOWE: I have arranged for the dinner at the University Club for Tuesday evening, January 6th and have spoken to Mr. Alexander about it and find that he is free for that evening. I assume that you have similarly arranged with Mr. Adams about it. I will put the time for the dinner at 7:15 P. M. so that you would not have to hurry from your train. Mr. Alexander has since told me that he has heard from you and that that hour is satisfactory.

I think it can be arranged very easily so that you will have an opportunity to talk with Mr. Gifford and Mr. Houston by themselves. If Mr. Gifford is to take a larger part of the responsibility, it seems to me that his views as to how things should be set up should be given a good deal of weight and I am sure that he would be embarrassed in discussing such a subject in my presence and that is why I suggested and why I think it is really important that you should have some discussion of the matter with him.

As I mentioned in the meeting, Mr. Houston, besides being a Director of the Company, is, although not directly a part of the American Telephone and Telegraph Company's organization, in such close connection with it that he has an opportunity to see the workings of the machine and would be able to consider the whole subject quite impersonally, so, looking forward to seeing you and Mr. Adams at dinner Tuesday evening, January 6th at the University Club at 7:15 P. M. and counting on your passing my invitation to dinner along to Mr. Adams, I am

Yours very truly,

[Source: H. B. Thayer's personal files.]

JUNE 11, 1923.

Mr. GEORGE F. BAKER,
2 Wall Street,
New York City.

MY DEAR MR. BAKER: I enclose a suggestion for a letter which will indicate the general character of what I had in mind.

I shall be very grateful for whatever you may be able to give us and I am sure that it will be of very great help to Mr. Houston.

Yours very truly,

H. B. THAYER.

DEAR MR. HOUSTON: Mr. Thayer tells me that you are going abroad with a view to making European bankers better acquainted with the soundness of the American Telephone and Telegraph Company's stock and securities and the securities of its Associated Companies and he suggested that I give you a letter.

If you need an introduction to any of my banker friends abroad, perhaps this letter will serve.

I have been a Director and member of the Executive Committee of the Telephone Company for over twenty years. I have been very much interested in its policies and operations and that interest, together with a considerable financial interest and my duties as Director, has led me to study it with more than ordinary care. Its policies have been sound and have been justified by results. Its organization seems self-perpetuating. Men have come and gone but the steady progress of the company has not been impeded. It has been a great gratification to me to see the Company established as it is, firmly in the Goodwill of the Public and its stock and securities among the premier investments.

You can quote me as saying that I have confidence in the Company's future so far as one may foresee the future.

to be excellent.¹ By reason of the conservative financial and business policies which have always been followed by the management, the financial structure of the Bell System is exceptionally strong, and its earnings are satisfactory, and I know of no reason why they should not continue to be so. The management seems to be self-perpetuating. Men have come and gone but the steady progress of the Company has not been impeded.

I hope you will feel at liberty to use this letter in any way you may see fit.

With best wishes for a pleasant and satisfactory trip, I am

Very sincerely yours,

D. F. HOUSTON, Esq.,
President, Bell Telephone Securities Company,
195 Broadway, New York, N. Y.

[Source: H. B. Thayer's Confidential Company file.]

EXHIBIT No. 1659-83

[From files of Securities and Exchange Commission]

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

195 BROADWAY, NEW YORK

Exchange 3-9800

DECEMBER 12, 1939.

Mr. LLOYD C. MATHERS,
Securities & Exchange Commission, Washington, D. C.

DEAR MR. MATHERS: In accordance with your verbal request of yesterday, I am sending you herewith photostat copies of the following items:

Letter F. P. Fish to Charles H. Davis—12/6/05

Letter F. P. Fish to Edgar Speyer—12/16/05

Letter W. Murray Crane to F. P. Fish—1/27/06

Letter Lee Higginson & Co. to F. P. Fish—2/1/06

¹ So in original.

Copy of informal agreement (2/8/06), initialed by J. P. M., K. L. & Co., R. W., F. P. F. and W. M. C.

Copy of stockholders' resolution approved by stockholders at meeting December 21, 1905, authorizing the Board of Directors to issue \$150,000,000 convertible bonds.

Very truly yours,

W. SHELMERDINE.

Enclosures.

EXHIBIT No. 1660

[Letter from Leon Henderson, Commissioner, Securities and Exchange Commission, to Hon. J. Lawrence Fly, Chairman, Federal Communications Commission]

DECEMBER 1, 1939.

HON. J. LAWRENCE FLY,

*Chairman, Federal Communications Commission,
Pennsylvania Ave. & 12th St., N. W., Washington, D. C.*

DEAR MR. FLY: AS you are no doubt aware the Securities and Exchange Commission has been directed by the Temporary National Economic Committee, established pursuant to Public Resolution No. 113, 75th Congress, to conduct hearings before the Committee on investment banking. In this connection we intend during the week of December 11 to present aspects of the financing of American Telephone & Telegraph Co. We should like very much to offer in evidence certain exhibits prepared by the Federal Communications Commission at the time of its investigation of American Telephone & Telegraph Co. It is my understanding that the exhibits which we propose to use are all matters of public record.

The bearer of this letter, Mr. Jay Blum, a member of the Staff, would like to pick out the exhibits which we propose to use. These exhibits are to be found, I believe, in Exhibit 2097-A, Docket 1. If it meets with your approval could Mr. Blum tag the exhibits we want and request a member of your Staff to examine them and then permit us to make photostats.

Your courtesy and cooperation will be deeply appreciated.

Sincerely yours,

LEON HENDERSON, *Commissioner*.

EXHIBIT No. 1661-1

[Memorandum from Investment Banking Section, Monopoly Study, Securities and Exchange Commission to Henry C. Alexander]

MEMORANDUM FOR HENRY C. ALEXANDER, ESQ., RE: AMERICAN TELEPHONE & TELEGRAPH CO. FINANCING

In connection with our study of the financing of the Telephone System, this memorandum has been prepared to aid you in making available to us certain data and other information from your files.

- (1) It is our understanding that a telephone group under the leadership of J. P. Morgan & Co. came into existence about 1906 or 1907 and that the financing of the American Telephone & Telegraph Co. and its associated companies was handled by this group until 1934. Would you be good enough to provide us with the following information as to the make-up and history of this group:
 - (a) How did this group come to be formed?
 - (b) The names of the members of the original group and the percentage interest of the participants in the financing.
- (2) It is our understanding that the make-up and percentage interest of the members of the telephone group changed from time to time. Will you therefore indicate the changes in the composition and percentage interest of the participants of the group. It is to be noted that the changes in the group after 1920 have already been furnished us in the historical memoranda on the financing since 1920.

Will you be good enough to make available to Mr. W. S. Whitehead any memoranda, letters or other documents which bear upon the foregoing questions?

Dated: Washington, D. C., November 15, 1939.

EXHIBIT No. 1661-2

[Prepared by J. P. Morgan & Co.]

Feb. 13, 1906 American Tel. & Tel. Co. Convertible 4% due 3/1/36- \$100, 000, 000
 Nov. 27, 1908 American Tel. & Tel. Co. Convertible 4% due 3/1/36- 50, 000, 000

Participants:

The original contractors consisted of—

J. P. Morgan & Co.
 Kuhn, Loeb & Co.
 Kidder, Peabody & Co.
 Baring Brothers & Co., Ltd.

each with a several liability of one-fourth and a liability for a total not exceeding one-third of the aggregate obligation.

By agreement with the four original contractors dated February 14, 1906, J. S. Morgan & Co. accepted a participation.

By agreement between J. P. Morgan & Co. and the First National Bank dated March 6, 1907, the First National Bank accepted a participation.

Upon final settlement of the account in 1908 the following percentages prevailed—

Kidder, Peabody & Co-----	25%
J. P. Morgan & Co-----	18¾
Baring Brothers & Co., Ltd-----	22½
Kuhn, Loeb & Co-----	22½
J. S. Morgan & Co-----	5
First National Bank-----	6¼

100%

Nov. 20, 1906 Pacific Tel. & Tel. Co. 1st Mtge. & Coll. Trust 5%
 30 Yr. S. F. Bonds dated Jan. 2, 1907----- \$10, 000, 000

J. P. Morgan & Co. accepted an interest from The Bank of California of San Francisco of 8% in the above offering.

Jan. 8, 1907 American Tel. & Tel. Co. 3 Yr. 5% Notes dated Jan. 1, 1907, due Jan. 1, 1910----- \$25, 000, 000

Participants:

Kidder, Peabody & Co. and Baring Brothers & Co., Ltd., London-----	} 47½%
Kuhn, Loeb & Co-----	
J. S. Morgan & Co-----	5
J. P. Morgan & Co-----	25

100%

Sept. 29, 1909 New York Tel. Co. 30 Yr. 4½% Bonds----- \$25, 000, 000

J. P. Morgan & Co. accepted a participation from Kidder, Peabody & Co. of 10% in the above offering made by Kidder, Peabody & Co. and Baring Brothers & Co., Ltd., London.

The said 10% of J. P. Morgan & Co. was further divided, viz.:

J. P. Morgan & Co-----	4%
First National Bank-----	2
National City Bank-----	2
J. S. Morgan & Co-----	2

10%

Mar. 14, 1910 New York Tel. Co. 30 Yr. 4½% Bonds----- \$10, 000, 000

J. P. Morgan & Co. accepted a participation from Kidder, Peabody & Co., of 25% in the above offering made by Kidder, Peabody & Co. and Baring Brothers & Co., Ltd., London.

The said 25% of J. P. Morgan & Co. was further divided, viz.:

J. P. Morgan & Co-----	10%
First National Bank-----	5
National City Bank-----	5
Morgan Grenfell & Co-----	5

25%

Dec. 9, 1908 Chicago Tel. Co. 1st Mtge. 5% Bonds due Dec. 1, 1923.	\$5,000,000
J. P. Morgan & Co. accepted from Lee, Higginson & Co. a 2% participation in the above issue.	
Dec. 6, 1910 Western Elec. Co. 1st Mtge. 5% Bonds	\$6,250,000
J. P. Morgan & Co. accepted from Lee, Higginson & Co. a 4% participation in the above issue.	
Jan. 25, 1911 American Tel. & Tel. Co. 5½% Notes dated 2/1/11 due Nov. 1/11	\$8,000,000
Missouri & Kansas Tel. Co.	\$3,500,000
Iowa Tel. Co.	2,500,000
Nebraska Tel. Co.	2,000,000
	<hr/>
	\$8,000,000

Participants:

Guaranty Trust Co.	25%
Bankers Trust Co.	12½
First National Bank, N. Y.	12½
National City Bank	12½
National Bank of Commerce	12½
Mercantile Trust Co.	12½
Astor Trust Co.	3¾
U. S. Mortgage & Trust Co.	3½
Liberty National Bank	3½
Chemical National Bank	2½
	<hr/>
	100%

May 27, 1912 and Nov. 22, 1912 New York Tel. Co. 1st & Gen'l Mtge. 4½% Bonds	£2,000,000
J. P. Morgan & Co. accepted from Kidder, Peabody & Co. a 10% participation in the above issue. The said 10% participation was further divided as follows:	\$15,000,000
Morgan Grenfell & Co.	2½%
J. P. Morgan & Co.	7½
	<hr/>
	10%

Jan. 10, 1913 American Tel. & Tel. Co. 3 Months 6% Notes dated Jan. 10, 1913, as follows:	\$7,500,000
American Tel. & Tel. Co.	\$3,500,000
Northwestern Tel. Exchange Co.	2,500,000
Iowa Tel. Co.	1,000,000
Cleveland Tel. Co.	500,000
	<hr/>
	\$7,500,000

Participants:

National Bank of Commerce	26⅔%
Guaranty Trust Co.	26⅔
Bankers Trust Co.	20
First National Bank, N. Y.	16⅔
Liberty National Bank	3½
J. P. Morgan & Co.	6%
	<hr/>
	100%

Jan. 8, 1913 American Tel. & Tel. Co. 20 Yr. Conv. 4½% dated Mar. 1, 1913	\$67,000,000
(These Bonds were offered to stockholders for subscription. \$1,556,300 Bonds were unsubscribed for and taken by group.)	

Participants:

Kidder, Peabody & Co. and Baring Brothers, Ltd., London	35%
Kuhn, Loeb & Co.	15
Morgan Grenfell & Co.	5
First National Bank, N. Y.	10
National City Co.	10
J. P. Morgan & Co.	25
	<hr/>
	100%

Oct. 7, 1913 Nebraska Tel. Co. 6 Months 5½% Discount Notes dated 10/10/13-----	\$3, 500, 000
Oct. 7, 1913 Iowa Tel. Co. 6 Months 5½% Discount Notes dated 10/10/13-----	1, 500, 000
Oct. 7, 1913 Northwestern Tel. Exchange Co. 6 Months 5½% Discount Notes dated 10/10/13-----	2, 500, 000
Oct. 7, 1913 Southwestern Tel. & Tel. Co. 6 Months 5½% Discount Notes dated 10/10/13-----	2, 500, 000

Participants:

Kidder, Peabody & Co. and }-----	35%
Baring Brothers, Ltd., London }-----	15
Kuhn, Loeb & Co.-----	5
Morgan Grenfell & Co.-----	3¾
Lee Higginson & Co.-----	10¾ ₁₆
First National Bank, N. Y.-----	10¾ ₁₆
National City Co.-----	20¾ ₈
J. P. Morgan & Co.-----	100%

Feb. 21, 1914 Southern Bell Tel. & Tel. Co. 30 Yr. 1st Mtge. S. F. 5% due 1/1/41-----	\$5, 000, 000
---	---------------

Participants:

Robinson-Humphrey Ward Law & Co.-----	40%
Kidder, Peabody & Co. and }-----	18. 9
Baring Brothers & Co., Ltd., London }-----	8. 1
Kuhn, Loeb & Co.-----	2. 7
Morgan Grenfell & Co.-----	6.
Lee, Higginson & Co.-----	6. 075
First National Bank, N. Y.-----	6. 075
National City Co.-----	12. 15
J. P. Morgan & Co.-----	100%

Mar. 31, 1914 Northwestern Tel. Exchange Co. 2 Yr. 5% Coupon Notes dated 4/15/1914-----	\$7, 500, 000
Mar. 31, 1914 Nebraska Tel. Co. 2 Yr. 5% Coupon Notes dated 4/15/1914-----	4, 000, 000
Mar. 31, 1914 Iowa Tel. Co. 2 Yr. 5% Coupon Notes dated 4/15/1914-----	2, 500, 000
Mar. 31, 1914 Cleveland Tel. Co. 2 Yr. 5% Coupon Notes dated 4/15/1914-----	2, 500, 000
Mar. 31, 1914 Missouri & Kansas Tel. Co. 2 Yr. 5% Coupon Notes dated 4/15/1914-----	7, 500, 000
Mar. 31, 1914 Cumberland Tel. & Tel. Co. 2 Yr. 5% Coupon Notes dated 4/15/1914-----	6, 000, 000
	\$30, 000, 000

Participants:

Kidder, Peabody & Co. and }-----	35%
Baring Brothers & Co., Ltd., London }-----	15
Kuhn, Loeb & Co.-----	5
Morgan Grenfell & Co.-----	11¾
First National Bank, N. Y.-----	11¾
National City Co.-----	22½
J. P. Morgan & Co.-----	100%

May 25, 1914 Ohio State Telephone Co. Preferred Stock-----	\$3, 000, 000
J. P. Morgan & Co. accepted from Otis & Company, Cleveland, Ohio, a 15% participation in the above issue.	

Jan. 5, 1916 American Tel. & Tel. Co. 2 Yr. 4½% Notes dated 2/1/16----- \$50, 000, 000

Participants:

Kidder, Peabody & Co. and-----	} 33¼%
Baring Brothers, Ltd., London-----	
Kuhn, Loeb & Co-----	14¼
Lee, Higginson & Co-----	5
Morgan Grenfell & Co-----	4¾
First National Bank, N. Y-----	10½
National City Co-----	10½
J. P. Morgan & Co-----	21¾

100%

Dec. 1, 1916 American Tel. & Tel. Co. 30 Yr. 5% Coll. Trust Bonds dated Dec. 1, 1916, due Dec. 1, 1946----- \$80, 000, 000

Participants:

Kidder, Peabody & Co. and-----	} 31½%
Baring Brothers & Co., Ltd., London-----	
Kuhn, Loeb & Co-----	13½
Morgan Grenfell & Co-----	4½
First National Bank, N. Y-----	10½
National City Co-----	10½
J. P. Morgan & Co-----	20¼
Lee, Higginson & Co-----	5
Harris, Forbes & Co-----	5

100%

Jan. 5, 1918 Cumberland Tel. & Tel. Co. 1 Yr. 6% Notes dated 2/1/18, due 2/1/19----- \$6, 000, 000

Jan. 5, 1918 Iowa Tel. Co. 1 Yr. 6% Notes dated 2/1/18, due 2/1/19----- 4, 000, 000

Jan. 5, 1918 Nebraska Tel. Co. 1 Yr. 6% Notes dated 2/1/18, due 2/1/19----- 5, 000, 000

Jan. 5, 1918 Northwestern Tel. Exchange Co. 1 Yr. 6% Notes dated 2/1/18, due 2/1/19----- 10, 000, 000

Jan. 5, 1918 Southwestern Bell Tel. Co. 1 Yr. 6% Notes dated 2/1/18, due 2/1/19----- 15, 000, 000

\$40, 000, 000

Participants:

Kidder, Peabody & Co. and-----	} 31½%
Baring Brothers & Co., Ltd., London-----	
Kuhn, Loeb & Co-----	13½
Lee, Higginson & Co-----	5
Harris, Forbes & Co-----	5
Morgan Grenfell & Co-----	4½
First National Bank, N. Y-----	10½
National City Co-----	10½
J. P. Morgan & Co-----	20¼

100%

June 19, 1918 American Tel. & Tel. Co. 7 Yr. 6% Conv. Bonds dated 8/1/18, due 8/1/25----- \$48, 367, 200

(Bonds were offered to stockholders for subscription. \$37,522,600. Bonds were unsubscribed for and taken up by Syndicate.)

Participants:

Kidder, Peabody & Co. and-----	} 31½%
Baring Brothers & Co., Ltd., London-----	
Kuhn, Loeb & Co-----	13½
Lee, Higginson & Co-----	5
Harris, Forbes & Co-----	5
Morgan Grenfell & Co-----	4½
First National Bank, N. Y-----	10½
National City Co-----	10½
J. P. Morgan & Co-----	20¼

100%

Jan. 8, 1919 New York Tel. Co. 30 Yr. S. F. 6% Debentures dated 2/1/19, due 2/1/49-----	\$25,000,000
Jan. 8, 1919 American Tel. & Tel. Co. 5 Yr. 6% Notes dated 2/1/19, due 2/1/24-----	40,000,000

Participants:

Kidder, Peabody & Co. and-----	31½%
Baring Brothers & Co., Ltd., London-----	
Kuhn, Loeb & Co.-----	13½
First National Bank, N. Y.-----	10⅞
National City Co.-----	10⅞
Harris, Forbes & Co.-----	5
Lee, Higginson & Co.-----	5
Morgan Grenfell & Co.-----	4½
J. P. Morgan & Co.-----	20¼

100%

July 3, 1919 Tri State Tel. & Tel. Co. 3 Yr. 6% Notes due July 1, 1922-----	\$1,250,000
J. P. Morgan & Co. accepted from the National City Co. a participation of 10½% in the above issue.	
Sept. 29, 1919 American Tel. & Tel. Co. 3 Yr. 6% Notes dated 10/1/19, due 10/1/22-----	\$50,000,000

Participants:

Kidder, Peabody & Co.-----	31½%
Kuhn, Loeb & Co.-----	13½
Lee, Higginson & Co.-----	5
Harris, Forbes & Co.-----	5
Morgan Grenfell & Co.-----	4½
First National Bank, N. Y.-----	10⅞
National City Co.-----	10⅞
J. P. Morgan & Co.-----	20¼

100%

EXHIBIT No. 1662

[From the files of Kuhn, Loeb & Co.]

COPY OF TELEGRAM SENT TO KIDDER PEABODY & Co., FOR MR. WINSOR,
BOSTON, MASS., FEBY. 8, 1906

It was not proper to ask us to sign an agreement involving such large responsibility without giving us an opportunity to carefully consider its contents. I signed it in the expectation that it had received your own and the Messrs. Morgans careful scrutiny. I now find that the following rectifications need be made before the agreement is delivered to you. Add a clause that each party of the second part liability shall not exceed thirty percent of the total liability, further that the Company shall also advertise redemption and other notice in London and at least two continental centres and shall furnish the Bankers such data and statements as they may require for the purpose of any public issue at home and in Europe. Stock in Companys treasury cannot be considered as outstanding its sale at a lower price than 140% would have the same effect, than the sale of new stock, any disposition of stock beyond the one hundred thirty odd millions in public hands must therefore be considered a new issue and affect the conversion price in the manner agreed upon. The prohibition against issue of unsecured obligations beyond one hundred and fifty millions need cover the entire period during which the Bonds run and remain unconverted nor should it be permissible to increase unsecured indebtedness until the twenty seven millions stock being the amount beyond the hundred thirty odd millions actually outstanding in hands of public are first disposed of.

JACOB H. SCHIFF.

EXHIBIT No. 1663

[From the files of J. P. Morgan & Co.]

JAN. 8th, 1913.

(Hand written:) Confirmed—1/10-#19/1636.

FIRST NATIONAL BANK,
2 Wall Street, New York City.

DEAR SIR: Herewith we enclose to you copies of two communications of this date to Mr. Theodore N. Vail, President of the American Telephone and Telegraph Company, in which is therein stated we offer, on behalf of ourselves and our associates, to purchase and take at par any and all convertible bonds of that Company described in such communication which shall have been offered to the stockholders to the amount of 20% of their several stockholdings, and shall not have been taken by them, we to receive, for ourselves and our associates, as compensation for such taking, the sum in cash equal to 2% of the principal sum of all the bonds so offered to stockholders.

An understanding upon the terms of this communication was reached with the President and members of the Executive Committee of the Company, and we are expecting to receive from the President a formal confirmation thereof, of which we will send you a copy.

It is understood between us that you are associated with us and others and are interested in this purchase, compensation and expenses, to the extent of 10% thereof.

Later a formal contract will be prepared, in which you, ourselves and other associates will be parties on the one side and the Telephone Company on the other side.

Yours very truly,

Signed: J. P. MORGAN & Co.

P. S.—It is probable that we will have to make some modification of the percentage of allotment. As, however, we are not in a position to state the definite percentage today, we would appreciate it if you will confirm as above, subject to further advice.

(Handwritten:) Same to National City Co. Confirmed 1/13-19/2219.

EXHIBIT No. 1664

[From the files of Kuhn, Loeb & Co.]

J. P. MORGAN & Co.
Wall St. corner Broad.
New York.
DREXEL & Co.
Philadelphia.MORGAN, GREENFELL & Co.
London.
MORGAN, HARJES & Co.
Paris.

NEW YORK, January 6, 1916.

*Confidential.*Messrs. KUHN, LOEB & Co.,
52 William Street, New York City.

GENTLEMEN: We beg to hand you herewith copies of letters which have passed between ourselves and the American Telephone & Telegraph Company covering the purchase, on the terms therein mentioned, of certain notes of its Associated Companies.

We have offered Messrs. Lee, Higginson & Co., and they have accepted, a 5% interest in this purchase on original terms.

If you desire to have the interest of 15% of the remainder in this purchase for yourselves, kindly let us have your confirmation at your early convenience.

Yours very truly,

J. P. MORGAN & Co.

HPD-H1
Enclosures.

EXHIBIT No. 1665

[From the files of J. P. Morgan & Co.]

[Copy]

Confidential.

NEW YORK, November 27, 1916.

AMERICAN TELEPHONE & TELEGRAPH CO. 30 YEAR COLLATERAL TRUST 5% BONDS

MESSRS. KIDDER, PEABODY & CO.,

15 Wall Street, New York, N. Y.

DEAR SIR: Referring to our letter of the 24th instant, in regard to an interest in the purchase of \$80,000,000 of the above mentioned bonds, we beg to confirm our understanding that, at the request of Mr. Vail, President of the Company, we have agreed to include Messrs. Lee, Higginson & Co. and Messrs. Harris, Forbes & Co. in the purchase on original terms.

This will make your interest in the above business 31½% instead of 35%, as previously advised.

We will be glad to have you confirm that this is agreeable to you.

Yours very truly,

J. P. MORGAN & CO.

EXHIBIT No. 1666

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Participations on "original terms" in Telephone financing headed by J. P. Morgan & Co. 1906-1919

Issue	Amount	Date	Kidder, Peabody & Co., and Baring Bros., Ltd., of London	J. P. Morgan & Co.	First National Bk. of New York	National City Co.	Morgan, Grenfell & Co., Ltd. ¹	Kuhn, Loeb & Co.	Lee Higginson & Co.	Harris, Forbes & Co.
A. T. & T. Conv. 4s of 1936.	\$100,000,000	2/13/06	} 47½	18¾	6¾	-----	5	22½	-----	-----
A. T. & T. 5s of 1910.....	50,000,000	11/27/08		25	10	10	5	22½	-----	-----
A. T. & T. Conv. 4½s of 1933.	25,000,000	1/1/07		35	25	10	5	15	-----	-----
A. T. & T. Sub. Cos. 5½s of 1913.	67,000,000	3/1/13	35	20½	10½	10½	5	15	3¾	-----
A. T. & T. Sub. Cos. 5s of 1916.	10,000,000	10/10/13	35	22½	11¾	11¾	5	15	-----	-----
A. T. & T. 4½s of 1918...	30,000,000	4/15/14	35	21¾	10½	10½	4¾	14¼	5	-----
A. T. & T. 5s of 1946.....	50,000,000	2/1/16	33¾	21¾	10½	10½	4¾	13½	5	5
A. T. & T. Sub. Cos. 6s of 1919.	80,000,000	12/1/16	31½	20¾	10½	10½	4¾	13½	5	5
A. T. & T. Conv. 6s of 1925.	40,000,000	1/5/18	31½	20¾	10½	10½	4¾	13½	5	5
A. T. & T. Conv. 6s of 1925.	48,367,200	8/1/18	31½	20¾	10½	10½	4¾	13½	5	5
New York Telephone Co. 6s of 1949.	25,000,000	2/1/19	} 31½	20¾	10½	10½	4¾	13½	5	5
A. T. & T. 6s of 1924.....	40,000,000	2/1/19		20¾	10½	10½	4¾	13½	5	5
A. T. & T. 6s of 1922.....	50,000,000	10/1/19		20¾	10½	10½	4¾	13½	5	5

¹ Successors to J. S. Morgan & Co.

Source: Compiled from data supplied by J. P. Morgan & Co.

EXHIBIT No. 1667

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

SUMMARY STATEMENT OF PARTICIPATIONS BY J. P. MORGAN & CO. IN ISSUES OF "ASSOCIATED" COMPANIES HEADED BY OTHERS

- (1) On November 20, 1906, J. P. Morgan & Co. accepted an 8% interest in an issue of \$10,000,000. Pacific Telephone & Telegraph Co. first mortgage and collateral trust 5%, 30 year Sinking Fund Bonds, dated January 2, 1907, from the Bank of California of San Francisco.
- (2) On September 29, 1909, J. P. Morgan & Co. accepted a participation of 10% in an offering of \$25,000,000, 30 year 4½% Bonds of the New York Telephone Co. from Kidder, Peabody & Co. and Baring Brothers & Co., Ltd. of London. This 10% was further divided, as follows:

J. P. Morgan & Co.....	4%
First National Bank.....	2
National City Bank.....	2
J. S. Morgan & Co.....	2
	10%
- (3) On March 14, 1910, J. P. Morgan & Co. accepted a participation of 25% in an issue of \$10,000,000 30 year, 4½% Bonds of the New York Telephone Co. from Kidder, Peabody & Co. and Baring Brothers & Co., Ltd., of London. The 25% interest was further divided, as follows:

J. P. Morgan & Co.....	10%
First National Bank.....	5
National City Bank.....	5
Morgan Grenfell & Co.....	5
	25%
- (4) On December 9, 1908, J. P. Morgan & Co. accepted a participation of 2% in an issue of \$5,000,000 First Mortgage 5% Bonds due December 1, 1923 of the Chicago Telephone Co. from Lee, Higginson & Co.
- (5) On December 6, 1910, J. P. Morgan & Co. accepted a participation of 4% in an issue of \$6,250,000—5% First Mortgage Bonds of the Western Electric Co. from Lee, Higginson & Co.
- (6) On May 27, 1912, and November 22, 1912, J. P. Morgan & Co. accepted an interest of 10% in an issue of \$15,000,000 and L 2,000,000 4½% First and General Mortgage Bonds of the New York Telephone Co. The Morgan participation was further divided 2½% to Morgan Grenfell & Co. and 7½% to J. P. Morgan & Co.
- (7) On February 21, 1914, J. P. Morgan & Co. participated in an issue of \$5,000,000 5% First Mortgage Sinking Fund Bonds of the Southern Bell Telephone Co. The participants in the issue were:

Robinson-Humphrey Ward Law & Co.....	40.0
Kidder, Peabody & Co. and.....	
Baring Brothers & Co., Ltd. Lond.....	18.9
Kuhn, Loeb & Co.....	8.1
Morgan Grenfell & Co.....	2.7
Lee, Higginson & Co.....	6.0
First National Bank, N. Y.....	6.075
National City Co.....	6.075
J. P. Morgan & Co.....	12.15
	100.0
- (8) On May 25, 1914, J. P. Morgan & Co. accepted a participation of 15% in an issue of \$3,000,000 of Ohio State Telephone Co. preferred stock from Otis & Co. of Cleveland.
- (9) On July 3, 1919, J. P. Morgan & Co. accepted a participation of 10½% in an issue of \$1,250,000 3 year 6% Notes, of the Tri-State Telephone & Telegraph Co., due July 1, 1922, from the National City Co.

[Source: From data supplied by J. P. Morgan & Co.]

"EXHIBIT No. 1668," appears in Hearings, Part 22, appendix, p. 11827

EXHIBIT No. 1669

[Telegram from R. S. Peterson, Halsey, Stuart & Co., Inc., to H. L. Stuart]

CHICAGO, ILL., December 15, 1939.

H. L. STUART,

Care Old Caucus Room, Senate Office Building:

In TNEC hearing December thirteen Nebemkis tried to show me we had something to say about placing paying agency public service northern Illinois by reading into record interoffice memorandum from Buck to Shrader dated August seventeen nineteen thirty eight but did not read into record pencil notation across face of letter by FKS reading as follows: quote Answered by wire we will have nothing to say about it and Chase can do whatever they like. unquote Without Shrader's notation such letter in record not consistent with facts and conveys wrong impression which you may wish to clear up if opportunity presents itself today.

R. S. PETERSON.

"EXHIBIT No. 1670" appears in Hearings, Part 22, appendix, p. 11795.

EXHIBIT No. 1671

[From the files of the representative of the old firm of Kidder, Peabody & Co.]

American Telephone Proprietary Interests

	Mar. 1906	Am. Tel 5% Notes Jan. 1907	Conv. 4½'s April 1913	Tel Stock Dec. 1913	Am. Tel Sub. Notes Aug. 1914	Jan. 1916	Dec. 1916	Sept. 1918	May 1920
J. P. Morgan & Co.	25						25	25	20
Kuhn, Loeb & Co.	22.50						13.50	13.50	10
J. S. Morgan & Co.	5								
1st Nat'l Bank, N. Y.							10	10	10
Nat'l City Bk., N. Y.							10	10	10
Harris, Forbes & Co.							5	5	5
Lee, Higginson & Co.						5	5	5	5
Guaranty Trust Co.									5
Bankers Trust Co.									5
New England.									15
Kidder, Peabody & Co.	18					35	31.50	31.50	15
Baring Bros. & Co. Ltd.	15								
Estabrook & Co.	4								
Old Colony Trust Co.	6.50								
R. L. Day & Co.	4								
	100.00								
	N. E. 47½%	N. E. 47½%	N. E. 35%	N. E. 35%	N. E. 35%	N. E. 35%	N. E. 31.50%	N. E. 31.50%	N. E. 30%
NEW ENGLAND									
R. L. Day & Co.	4	4	2.50	2.50	2.50	2.50	2.25	2.50	
Estabrook & Co.	4	4	2.50	2.50	2.50	2.50	2.25	2.50	
Old Colony Trust Co.	6.50	6.50	4		4	4	3.60	4	
Hayden, Stone & Co.						1.66	1.50	1.66	
F. S. Moseley & Co.		10		(1)	(1)			2.34	
Kidder, Peabody & Co.	18	13	15	19	15	13.34	12	19.50	
Baring Bros & Co. Ltd.	15	10	11	11	11	11	9.90		
	47.50	47.50	35	35	35	35.00	31.50	31.50	

¹ Gave Hayden 1/9th.

(Handwritten:) Compiled for R. W. Aug. 16/20.

EXHIBIT No. 1672

[From the files of the representative of the old firm of Kidder, Peabody & Co.]

(Sept. 19, 1918)

Proprietary Interests American Telephone & Telegraph Company

J. P. Morgan & Co	25	%					
First National Bank	10	%					
Kuhn, Loeb & Co	13½	%					
National City Bank	10	%					
Harris, Forbes & Co., Inc	5	%					
Lee, Higginson & Co	5	%					
Kidder, Peabody & Co. ¹	31½	%					
			100	%			
¹ Kidder, Peabody & Co	14.80	%	Kidder, Peabody & Co	19.50	%	61.905	
Baring Bros. & Co	4.70	%					
Old Colony Trust Co	4.	%		Old Colony Trust Co	4.	%	12.698
Estabrook & Co	2.50	%		Estabrook & Co	2.50	%	7.937
R. L. Day & Co	2.50	%		R. L. Day & Co	2.50	%	7.937
Hayden, Stone & Co	1.66	%		Hayden, Stone & Co	1.66	%	5.269
F. S. Moseley & Co	1.34	%		F. S. Moseley & Co	1.34	%	4.254
	31.50	%			31.50	%	100.000

Italic indicates pencil figures.

EXHIBIT No. 1673

[From the files of the representative of the old firm of Kidder, Peabody & Co.]

NEW YORK, May 5th, 1920.

"Original terms" group on future purchases of A. T. & T.¹ securities as agreed to, at "the Library," this morning between J. P. M., H. P. D. & R. W. K. P. & Co. to manage N. E. & J. P. M. & Co. the rest of the country.

J. P. M. & Co-----	20
First-----	10
City-----	10
K. L. & Co-----	10
Harris, F. & Co-----	5
L. H. & Co-----	5
Guaranty Tr-----	5
Bankers-----	5
	70.
K. P. & Co-----	15
O. C. Tr-----	3
Estabrook-----	2½
Day-----	2½
Moseley-----	1½
Hayden, S. & Co-----	1½
First-----	2
Shawmut-----	2
	30
	100%

Negotiations to be joint but both free to talk with the Co. and to help them in any way in their power.

(¹ Meaning purchase or underwriting of A. T. & T. or Sub-Co. securities.)

EXHIBIT No. 1674

[From the files of the representative of the old firm of Kidder, Peabody & Co.]

September 30, 1920.

New England Proprietary Interests.

Kidder, Peabody & Co. ^{14 3/4}
 Old Colony Trust Co. - 3 1/2
 Hatabrook & Co. - 2 1/2
 R. L. Day & Co. - 2 1/2
 F. B. Mosley & Co. 1 1/2
 # ~~Hayston, Stone & Co.~~
 First National Bank - 2 1/2
 # ~~The Chaurmut Corporation~~

Interest in Pennsylvania Bell
Selling Syndicate.

Old Colony Trust Co. \$350,770.
 Hatabrook & Co. 250,000.
 R. L. Day & Co. 250,000.
 Hayston, Stone & Co. 100,000.
 F. B. Mosley & Co. 250,000.
 National Shawmut Bk 250,000.
 First National Bk. 250,000.

* Consolidated Statement with
 First Natl. Bank check for \$500 to First Natl. Bank on 10/1/20
 50 per cent. of \$1000 10/1/20

Sept. 1920

They ask us to make
 at Hayston Securities Corp
 Apr. 9, 1921

* made change as of Nov 1/20

EXHIBIT No. 1675

[From the personal effects of the late Robert Winsor]

23 WALL STREET, NEW YORK, *August 17th, 1920.*

MY DEAR MR. WINSOR: You were good enough to suggest that I make the adjustment of the $\frac{3}{4}$ of 1% in the telephone allotment which is to be given up by some one to furnish another $\frac{3}{4}$ of 1% to Kuhn Loeb & Co. I find almost insurmountable difficulties in taking this out of any of our New York associates. I am also handicapped by not knowing the considerations which affected the original division of 70% to New York and 30% to Boston.

If you have no objection, I will tell Kuhn, Loeb & Co. that they are to have a 10 $\frac{3}{4}$ % interest in the group and we can leave for adjustment between Mr. Davison and yourself whether that is to come from J. P. Morgan & Co. or from Kidder, Peabody & Co., or, if from both, in what proportions. Mr. Davison will be home in about two weeks.

Yours very truly,

DWIGHT W. MORROW.

ROBERT WINSOR, Esq.,

Messrs. Kidder, Peabody & Co., 18 Broad Street, New York City.

EXHIBIT No. 1676

[From the personal effects of the late Robert Winsor]

AUGUST 18, 1920.

DEAR MORROW: I have your note of yesterday, and am quite willing that the matter about which you write should be left for adjustment between Mr. Davison and myself after his return in September.

Very truly yours,

ROBERT WINSOR.

DWIGHT W. MORROW, Esq.,

23 Wall St., New York, N. Y.

"EXHIBIT No. 1677" appears in full in the text, p. 11903

EXHIBIT No. 1678

[From the personal effects of the late Robert Winsor]

OCTOBER 1, 1920.

MY DEAR MORROW: I have your letter of September 28th, and confirm the arrangement as to the division of the additional Telephone allotment to be given up to Kuhn, Loeb & Co.

I am most thankful that things went along all right on the Pennsylvania issue.

Very truly yours,

ROBERT WINSOR.

DWIGHT W. MORROW, Esq.,

Messrs. J. P. Morgan & Co., New York, N. Y.

(Hand-written matter on margin reads:) I've just been called up by your friend C. C. and he certainly showed (and in a financial matter) again, an awfully level head.

EXHIBIT No. 1679

[From the files of the representative of the old firm of Kidder, Peabody & Co.]

14

American Tel & Tel Co.

<i>J.P. Co.</i>	<i>20</i>	<i>20</i>
<i>12</i>	<i>10</i>	<i>10</i>
<i>City</i>	<i>10</i>	<i>10</i>
<i>K.P. Co.</i>	<i>15</i>	<i>15</i>
<i>K.L. Co.</i>	<i>10</i>	<i>10</i>
<i>H.F. Co.</i>	<i>6 1/2</i>	<i>5</i>
<i>L.H. Co.</i>	<i>6 1/2</i>	<i>5</i>
<i>General</i>	<i>6 1/2</i>	<i>5</i>
<i>Boston</i>	<i>6 1/2</i>	<i>5</i>
<i>etc</i>	<i>9</i>	<i>15</i>
	<i>100</i>	<i>100</i>

6-1920




EXHIBIT No. 1680-1

[From the files of the representative of the old firm of Kidder, Peabody & Co. Pencil memorandum by Clifford M. Brewer]

MEMORANDUM

JAN. 31/24.

To Southwestern Bell.

 $\frac{1}{4}$ K. P. } $\frac{1}{8}\%$
 $\frac{3}{4}$ J. P. M. & Co. }
balance $\frac{7}{8}$ divided as usual to proprietors.

EXHIBIT No. 1680-2

[From the files of the representative of the old firm of Kidder, Peabody & Co.]

JANUARY 25, 1924.

At the time of the purchase of Southwestern Bell Telephone First 5%, Series "A", of 1954, the Proprietary Profit was distributed on a different basis, in accordance with letter from J. P. Morgan under date of January 25th, 1924, as per following extract:

"We are forming a Syndicate in which we shall participate to purchase these bonds from ourselves and associates at 91% and accrued interest and to offer them for public subscription at 93½% and accrued interest. In accordance with our discussion at the meeting at which the above purchase was reported verbally today, we plan to charge a managing commission of one-eighth percent on the principal amount of bonds to be issued. After full consideration of the matter and in line with the understanding that the decision as to the allocation of this one-eighth percent would be left to us, we have thought it was advisable to charge it against the profit of the original purchasers."

The above method to be followed in all subsequent telephone issues, i. e.,

1% of issue, less ⅛% for Managers' commission.

¼ of said ⅛ to go to K. P.

¾ of " ⅛ to go to J. P. M.

leaving ⅞% to be divided among the Proprietors.

[The above paragraph had been crossed out in pencil.]

New England Proprietary Interests

Old Colony Trust Co. ¹ -----	3%
Estabrook & Co-----	2½
R. L. Day & Co-----	2½
F. S. Moseley-----	1½
Haystone Securities-----	1½
First National Bank-----	2
National Shawmut Bank-----	2
Kidder, Peabody & Co-----	14¾
	<hr/>
	29¾

(Handwritten footnote:) ¹ February 17/30—As per J. R. Chapin Old Colony Consolidated with First Natl. & check for 5% interest was sent to First Natl. Bank on American Tel. & Tel. 5% Deb. due 1965.

EXHIBIT No. 1681-1

[Letter from J. P. Morgan & Co. to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

J. P. MORGAN & CO.

Wall St. corner Broad, New York

NEW YORK, December 5, 1939.

PETER R. NEHEMKIS, Jr., Esq.,

Special Counsel, Monopoly Study, Investment Banking Section, Securities and Exchange Commission, Washington, D. C.

DEAR MR. NEHEMKIS:

In reply to your telegraphic request of November 30, 1939, I enclose herewith a schedule regarding American Telephone & Telegraph Company and associated company financing from January 1, 1920, to June 16, 1934.

Yours very truly,

HENRY C. ALEXANDER.

Enclosure.

EXHIBIT NO. 1681-2

(Table accompanying Exhibit No. 1681-1)

American Telephone & Telegraph Co. and Associated Companies, January 1, 1920, to June 16, 1934

Date of Issue	Title of Issue	Amount of Issue	Our Share of Managing Commission	Original Group		Selling Syndicate or Group		Our Total Profit before Overhead, Expenses & Salaries & Taxes
				Amount of Our Interest	Our Net Profit	Amount of Our Interest	Our Net Profit	
Nov. 3, 1923	American Telephone & Telegraph Co. 20-Yr. S. F. 5 1/2% 11/1/43	\$100,000,000	---	\$20,000,000	\$200,000	\$5,015,000	\$84,015.75	\$284,015.75
Nov. 8, 1925	American Telephone & Telegraph Co. 35-Yr. S. F. 5% Debs. 1/1/60	125,000,000	\$164,062.50	25,000,000	206,250	8,000,000	126,587.25	496,899.75
Jan. 13, 1930	American Telephone & Telegraph Co. 35-Yr. 5% Debs. 2/1/65	150,000,000	168,750.00	30,000,000	255,000	10,271,000	194,796.14	618,546.14
Jan. 30, 1920	Bell Telephone Co. of Pa. 25-Yr. 1st & Ref. 7% S. F. "A" 10/1/45	25,000,000	---	5,000,000	50,000	755,000	24,013.15	74,013.15
Sept. 10, 1923	Bell Telephone Co. of Pa. 25-Yr. 1st & Ref. 5 1/2% 1/1/48	35,000,000	---	7,000,000	70,000	2,250,000	31,670.99	101,670.99
Jan. 11, 1925	Bell Telephone Co. of Pa. 1st & Ref. Mgtg. 5% "A" 6/1/56	50,000,000	56,250.00	10,000,000	85,000	3,540,000	63,846.57	204,596.57
Sept. 16, 1923	Illinois Bell Telephone Co. 1st & Ref. Mgtg. 5% "A" 6/1/56	50,000,000	---	10,000,000	100,000	3,042,000	44,019.52	144,019.52
June 14, 1925	New England Telephone & Telegraph Co. 1st Mgtg. 30-Yr. 5% "A" 6/1/52	35,000,000	---	7,000,000	70,000	2,235,000	39,145.64	109,145.64
May 13, 1926	New England Telephone & Telegraph Co. 1st Mgtg. 4 1/2% 5/1/61	40,000,000	45,000.00	8,000,000	68,000	2,610,000	48,407.03	162,407.03
Nov. 12, 1921	New York Telephone Co. Ref. Mgtg. 20-Yr. 6% "A" 10/1/41	50,000,000	---	10,000,000	100,000	1,722,000	7,103.79	145,103.79
Nov. 12, 1921	Northwestern Bell Telephone Co. 1st Mgtg. 20-Yr. 7% "A" 2/1/41	30,000,000	---	6,000,000	60,000	955,000	34,693.30	94,693.30
May 2, 1922	Pacific Telephone & Telegraph Co. Ref. Mgtg. 30-Yr. 5% "A" 5/1/52	35,000,000	---	5,000,000	50,000	720,500	32,927.95	94,693.30
Oct. 18, 1929	Southern Bell Telephone & Telegraph Co. 1st Mgtg. S. F. 5 1/2% 1/1/41	35,000,000	33,000.00	6,400,000	55,200	4,940,000	72,672.90	160,872.90
Jan. 25, 1924	Southern Bell Telephone & Telegraph Co. 1st & Ref. Mgtg. 30-Yr. 5% "A" 2/1/54	50,000,000	46,875.00	10,000,000	87,500	3,000,000	52,765.00	187,140.00
Mar. 27, 1924	Western Electric Co. Inc. 20-Yr. 5% Debs. 4/1/44	35,000,000	37,500.00	7,000,000	60,000	1,805,000	25,698.16	123,178.16
	Total	\$827,000,000	\$551,437.50	\$1,366,400,000	\$1,516,950	\$50,900,500	\$900,933.14	\$2,969,320.64

1 Table first submitted, Dec. 5, 1939.

EXHIBIT No. 16S1-3

[Table accompanying Exhibit No. 16S1-1]

American Telephone & Telegraph Co. and Associated Companies January 1, 1920 to June 16, 1934¹

Date of Issue	Title of Issue	Amount of Issue	Our Share of Managing Commission	Original Group		Selling Syndicate or Group		Our Total Profit before Overhead, Expenses, Salaries & Taxes
				Amount of Our Interest	Our Net Profit	Amount of Our Interest	Our Net Profit	
Sept. 30, 1920	Bell Telephone Co. of Pa. 25-Yr. 1st & Ref. 7% S. F. "A" 10/1/45	\$25,000,000	-----	\$5,000,000	\$50,000	\$785,000	\$24,013.15	\$74,013.15
Jan. 8, 1921	Northwestern Bell Telephone Co. 1st Mtge. 20-Yr. 7% "A" 2/1/41	30,000,000	-----	6,000,000	60,000	955,000	34,693.30	94,693.30
Nov. 12, 1921	New York Telephone Co. Ref. Mtge. 20-Yr. 6% "A" 10/1/41	30,000,000	-----	10,000,000	100,000	1,722,000	45,103.79	145,103.79
May 2, 1922	Pacific Telephone & Telegraph Co. Ref. Mtge. 30-Yr. 5% "A" 5/1/52	25,000,000	-----	5,000,000	50,000	720,500	13,027.95	63,027.95
May 23, 1922	New England Telephone & Telegraph Co. 1st Mtge. 30-Yr. 5% "A" 6/1/52	35,000,000	-----	7,000,000	70,000	2,235,000	39,145.64	109,145.64
Jan. 11, 1923	Bell Telephone Co. of Pa. 25-Yr. 1st & Ref. 5% 1/1/48	35,000,000	-----	7,000,000	70,000	2,260,000	31,670.99	101,670.99
June 14, 1923	Illinois Bell Telephone Co. 1st & Ref. Mtge. 5% "A" 6/1/56	50,000,000	-----	10,000,000	100,000	3,042,000	44,019.52	144,019.52
Nov. 3, 1923	American Telephone & Telegraph Co. 20-Yr. S. F. 5½% 11/1/43	100,000,000	-----	20,000,000	200,000	5,015,000	84,015.75	234,015.75
Jan. 23, 1924	Southwestern Bell Telephone & Telegraph Co. 1st & Ref. Mtge. 30-Yr. 5% "A" 2/1/54	50,000,000	-----	10,000,000	87,500	3,000,000	52,765.00	137,140.00
Mar. 27, 1924	Western Electric Co. Inc. 20-Yr. 5% Debs. 4/1/44	35,000,000	\$46,875.00	7,000,000	60,000	1,805,000	25,683.16	123,168.16
Jan. 8, 1925	American Telephone & Telegraph Co. 35-Yr. S. F. 5% Debs. 1/1/60	125,000,000	37,500.00	25,000,000	296,250	8,000,000	126,587.25	496,890.75
Sept. 16, 1925	Bell Telephone Co. of Pa. 1st & Ref. Mtge. 5% "C" 10/1/60	50,000,000	164,062.50	10,000,000	55,000	3,540,000	63,346.57	204,596.57
May 13, 1926	New England Telephone & Telegraph Co. 1st Mtge. 4½% 5/1/61	40,000,000	45,000.00	8,000,000	68,000	2,610,000	49,407.03	162,407.03
Oct. 18, 1929	Southern Bell Telephone & Telegraph Co. 1st Mtge. S. F. 5% 1/1/41	32,000,000	33,000.00	6,400,000	55,200	2,940,000	72,672.90	160,872.90
Jan. 13, 1930	American Telephone & Telegraph Co. 35-Yr. 5% Debs. 2/1/65	150,000,000	168,750.00	30,000,000	255,000	10,271,000	194,746.14	618,546.10
	Total	\$832,000,000	\$551,437.50	\$160,400,000	\$1,516,950	\$50,900,500	\$900,933.14	\$2,969,320.46

¹ Corrected table, subsequently submitted.

EXHIBIT No. 1682

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Bankers' gross commissions on issues of American Telephone and Telegraph Co. and associated companies managed by J. P. Morgan & Co. or Morgan Stanley & Company Incorporated, 1906-1939

1906-1919

Company	Issue	Year Issued	Principal Amount	Gross Spread in Points	Bankers' Gross Commissions
American Tel. & Tel. Co.	30 year 4s of 1936	1906	\$30,000,000	(1)	(1)
American Tel. & Tel. Co.	30 year 4s of 1936	1907	60,000,000	(1)	(1)
American Tel. & Tel. Co.	3 year 5s of 1910	1907	25,000,000	(1)	(1)
American Tel. & Tel. Co.	30 year 4s of 1936	1908	10,000,000	(1)	(1)
American Tel. & Tel. Co.	30 year 4s of 1936	1908	36,000,000	(1)	(1)
American Tel. & Tel. Co.	30 year 4s of 1936	1909	14,000,000	(1)	(1)
American Tel. & Tel. Co.	20 year 4½s of 1933	1913	67,000,000	2.00	\$1,340,000
American Tel. & Tel. Co.	30 year 5s of 1946	1916	80,000,000	3.50	2,800,000
American Tel. & Tel. Co.	2 year 4½s of 1918	1916	40,000,000	(1)	(1)
American Tel. & Tel. Co.	7 year 6s of 1925	1918-19	48,367,200	3.00	1,451,016
New York Telephone Co.	30 year 6s of 1949	1919	25,000,000	(1)	(1)
American Tel. & Tel. Co.	5 year 6s of 1924	1919	40,000,000	2.25	900,000
American Tel. & Tel. Co.	3 year 6s of 1922	1919	50,000,000	2.25	1,125,000
Sub-total 1906-1919			\$525,367,200		\$7,616,016

1920-1930

Bell Telephone Co. of Pa.	25 year 7s of 1945	1920	\$25,000,000	4.50	\$1,125,000
Northwestern Bell Telephone Co.	20 year 7s of 1941	1921	30,000,000	4.50	1,350,000
New York Telephone Co.	20 year 6s of 1941	1921	50,000,000	4.00	2,000,000
Pacific Telephone & Telegraph Co.	30 year 5s of 1952	1922	25,000,000	3.00	750,000
New England Tel. & Tel. Co.	30 year 5s of 1952	1922	35,000,000	3.00	1,050,000
American Tel. & Tel. Co.	20 year 5½s of 1943	1923	100,000,000	3.75	3,750,000
Bell Telephone Co. of Pa.	25 year 5s of 1948	1923	35,000,000	3.00	1,050,000
Illinois Bell Telephone Co.	35 year 5s of 1958	1923	50,000,000	3.25	1,625,000
Southwestern Bell Telephone Co.	30 year 5s of 1954	1924	50,000,000	3.50	1,750,000
American Tel. & Tel. Co.	35 year 5s of 1960	1925	125,000,000	3.50	4,375,000
Bell Telephone Co. of Pa.	35 year 5s of 1960	1925	50,000,000	3.00	1,500,000
New England Tel. & Tel. Co.	35 year 4½s of 1961	1926	40,000,000	3.00	1,200,000
Southern Bell Tel. & Tel. Co.	12 year 5s of 1941	1929	32,000,000	2.75	880,000
American Tel. & Tel. Co.	35 year 5s of 1965	1930	150,000,000	3.00	4,500,000
Subtotal 1920-1930			\$777,000,000		\$26,905,000

1935-1939

Illinois Bell Telephone Co.	35 year 3½s of 1970	1935	\$43,700,000	2.00	\$874,000
Southwestern Bell Tel. Co.	29 year 3½s of 1964	1935	44,000,000	2.00	880,000
Pacific Telephone & Telegraph Co.	30 year 3½s of 1966	1936	30,000,000	2.00	600,000
American Tel. & Tel. Co.	25 year 3½s of 1961	1936	150,000,000	2.00	3,000,000
American Tel. & Tel. Co.	30 year 3½s of 1966	1936	140,000,000	2.00	2,800,000
Pacific Tel. & Tel. Co.	30 year 3½s of 1966	1936	25,000,000	2.00	500,000
Southern Bell Tel. & Tel. Co.	25 year 3½s of 1962	1937	42,500,000	2.00	850,000
New York Telephone Co.	30 year 3½s of 1967	1937	25,000,000	2.00	500,000
Mountain States Tel. & Tel. Co.	30 year 3½s of 1968	1938	27,750,000	2.00	555,000
Southwestern Bell Tel. Co.	30 year 3s of 1968	1938	28,900,000	2.00	578,000
Southern Bell Telephone Co.	40 year 3s of 1979	1939	22,250,000	1.50	333,750
Sub-total 1935-1939			\$579,100,000		\$11,470,750
Grand Total 1906-1939			\$1,901,467,200		\$45,991,766

¹ Not available.

² Incomplete.

Source: Data supplied by Federal Communications Commission, J. P. Morgan & Co., and Morgan Stanley & Co. Incorporated.

"EXHIBIT No. 1683" introduced on p. 11892, appears in Hearings, Part 21, appendix, p. 11380

EXHIBIT No. 1684

[From the files of J. P. Morgan & Co.]

\$25,000,000 BELL TELEPHONE COMPANY OF PENNSYLVANIA TWENTY-FIVE YEAR FIRST AND REFUNDING MORTGAGE 7% SINKING FUND GOLD BONDS SERIES "A" SYNDICATE.

Under date of September 29th, 1920 (hand written), we entered into a contract with the Bell Telephone Company of Pennsylvania under the terms of which we agreed to purchase, for account of ourselves and associates, \$25,000,000. of the Company's 25-year First and Refunding Mortgage 7% Bonds, Series A, at 90½ and accrued interest. We formed a Syndicate under the same date to purchase the bonds from us at 91½ and accrued interest and to offer them at 95 and interest. Selling commissions of 1½% were allowed on confirmed allotments, on which commission participants were permitted to realow ¼% to dealers or banking institutions. The Syndicate expires December 1st, 1920. The books of the issue were opened September 30th, 1920 and closed the same date at 1.00 P. M. with subscriptions of \$68,402,300. Allotments were made as follows:

\$100 to	\$1,000 inclusive, in full.		
\$1,100 to	\$100,000	30%, minimum	\$1,000.
\$100,000 up	"	20%	" \$30,000.

and allotment letters were sent out on October 5th calling for payment on October 14th.

1% profit accruing to the original Group was paid on October 26th in the following proportions:

<i>NAMES</i>	<i>Percentage</i>
Kidder, Peabody & Company-----	29¾
Kuhn, Loeb & Company-----	10¾
Lee, Higginson & Company-----	5
Harris, Forbes & Company-----	5
First National Bank, N. Y.-----	10
National City Company-----	10
Guaranty Trust Company-----	4¾
Bankers Trust Company-----	4¾
J. P. Morgan & Company-----	20

As the issue had not been formally ratified by the stockholders, the proceeds of the bonds were not immediately available to the Company. The American Telephone & Telegraph Company borrowed \$11,000,000 from us, repayable December 9th. It was originally arranged that they should pay 7% interest on the loan and should be allowed 7% interest on an account to be set up for an amount equal to the loan and 3% interest on the balance of the funds. Mr. Porter objected to having an account on the books bearing interest at such a high rate, and it was finally figured that, by charging 5% on the loan and allowing 4% on the entire proceeds, practically the same amount of interest would accrue.

EXHIBIT No. 1685-1

[From the files of Kuhn, Loeb & Co.]

J. P. MORGAN & Co.,
Wall St. corner Broad,
New York.
DREXEL & Co.,
Philadelphia.
MORGAN, GRENELL & Co.,
London.
MORGAN, HARJES & Co.,
Paris.

NEW YORK, September 29, 1920.

MESSRS. KUHN, LOEB & Co.,
52 William Street, N. Y.

DEAR SIRs: We beg to advise that we have today purchased for account of ourselves and associates \$25,000,000 Bell Telephone Company of Pennsylvania, 25 Year First and Refunding Mortgage 7% Sinking Fund Gold Bonds, Series A, at 90½ and accrued interest.

We are forming a syndicate, in which we shall participate, to purchase these bonds from ourselves and associates at $91\frac{1}{2}\%$ and accrued interest, and offer them, for the account of the syndicate, for public subscription, at 95 and accrued interest.

Your interest in the purchase on original terms is \$2,687,500. We have allotted you, in the distributing syndicate, a participation of \$750,000.

Will you be good enough to confirm that the foregoing is in accordance with your understanding?

Yours very truly,

J. P. MORGAN & Co.

AMA AOR

(Handwritten) : \$2,687,500 = $10\frac{3}{4}\%$.

EXHIBIT No. 1685-2

[From the files of Kuhn, Loeb & Co.]

Original Terms

Confidential

SEPT. 30, 1920.

MESSRS. J. P. MORGAN & COMPANY,
23 Wall Street, New York.

DEAR SIRs: We beg to acknowledge receipt of your letter of the 29th instant, advising us that you have purchased for account of yourselves and associates \$25,000,000. Bell Telephone Company of Pennsylvania 25-Year First and Refunding Mortgage Seven Per Cent. Sinking Fund Gold Bonds Series "A" at $90\frac{1}{2}\%$ and accrued interest, also that you are forming a syndicate to purchase these bonds from yourselves and associates at $91\frac{1}{2}\%$ and accrued interest, and that the bonds are to be offered for account of the syndicate for public subscription at 95% and accrued interest.

We note that our interest in the purchase on original terms is \$2,687,500. We hereby confirm that all of the above is in accordance with our understanding.

Expressing our appreciation of your able handling of this transaction, we remain,

Yours very truly,

LS:L

EXHIBIT No. 1686-1

[Letter from J. P. Morgan & Co. to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

J. P. MORGAN & Co.

Wall St. corner Broad, New York

NEW YORK, October 30, 1939.

SECURITIES AND EXCHANGE COMMISSION,

Washington, D. C.

(Attention of Mr. David Ryshpan.)

DEAR SIRs: There are enclosed herewith summaries of the following issues:
The Bell Telephone Company of Pennsylvania 25 Year First & Refunding Mortgage 5% Gold Bonds, Series B.

New England Telephone and Telegraph Company First Mortgage $4\frac{1}{2}\%$ Gold Bonds, Series B, dated May 1, 1926, maturing May 1, 1961.

Northwestern Bell Telephone Company Twenty-Year 7% First Mortgage Sinking Fund Bonds, Series "A."

Bell Telephone Company of Pennsylvania First and Refunding Mortgage 5% Gold Bonds, Series "C", dated October 1, 1925 and due October 1, 1960.

Southwestern Bell Telephone Company First and Refunding Mortgage Thirty-Year 5% Gold Bonds, Series "A", due February 1, 1954.

American Telephone and Telegraph Company Thirty-five Year Sinking Fund 5% Gold Debentures, dated January 1, 1925 and due January 1, 1960.

American Telephone and Telegraph Company 20-Year Sinking Fund $5\frac{1}{2}\%$ Gold Debenture Bonds, dated November 1, 1923, due November 1, 1943.

Bell Telephone Company of Pennsylvania Twenty-five Year First and Refunding Mortgage 7% Sinking Fund Gold Bonds Series "A."

Illinois Bell Telephone Company First & Refunding Mortgage 5% Gold Bonds, Series "A", due June 1, 1956.

The Pacific Telephone and Telegraph Company Refunding Mortgage Thirty-Year 5% Gold Bonds, Series "A", dated May 1, 1922 due May 1, 1952.

New England Telephone and Telegraph Company First Mortgage Thirty-Year 5% Gold Bonds, Series "A."

New York Telephone Company Refunding Mortgage Twenty-Year 6% Gold Bonds, Series A.

Yours very truly,

J. P. MORGAN & Co.

EXHIBIT No. 1686-2

[From the files of J. P. Morgan & Co.]

(Stamped:) Please Return to Syndicate Department.

THE BELL TELEPHONE COMPANY OF PENNSYLVANIA 25-YEAR FIRST & REFUNDING MORTGAGE 5% GOLD BONDS, SERIES B—INTEREST JANUARY & JULY

On January 10th, 1923, we purchased from The Bell Telephone Company of Pennsylvania \$35,000,000 of their First & Refunding Mortgage 5% Series "B" Gold Bonds, dated January 1st, 1923, at 95½% and accrued interest. Associated with us in this purchase on original terms were the following for the amounts shown:

Kidder, Peabody & Co.....	\$10,412,500
Kuhn, Loeb & Company.....	3,762,500
Lee, Higginson & Co.....	1,750,000
Harris, Forbes & Co.....	1,750,000
First National Bank.....	3,500,000
National City Company.....	3,500,000
Guaranty Company.....	1,662,500
Bankers Trust Company.....	1,662,500
J. P. Morgan & Co.....	7,000,000
	<hr/>
	\$35,000,000

On the same day a distributing syndicate was formed to purchase these bonds at 96½% and accrued interest and to offer them for public subscription at 98½% and accrued interest. Selling commission of ¾% was allowed participants on confirmed allotments, out of which ¼% was permitted to be given up to dealers, banking institutions and insurance companies only. No arrangements were made for withdrawals.

The usual provision regarding commissions on bonds purchased in the market for syndicate account was included. We arranged with the Company to take any part of the outstanding \$24,405,700. Bell Telephone Company of Pennsylvania First & Refunding Mortgage 7% Bonds, Series "A", (which are to be called for payment at 107½ on April 1) at 107.78% and interest in payment for the First & Refunding 5% Bonds allotted. This price was equivalent to a 5% interest basis from January 24th to April 1st, 1923, computed on the redemption price of 107½%.

The subscription books opened at our office on January 11th and closed at 11:05 A. M. the same day, the subscriptions totalling \$152,051,600 bonds.

Because of the large total subscriptions, the allotment was made on an arbitrary basis and on January 12th, 1923, participants were notified of their allotments. Payment was made on January 24th at 98½ and interest, against delivery of J. P. Morgan & Co. Interim Receipts.

The Syndicate was to expire March 15, 1923 but on March 14th participants were notified that the syndicate was extended for thirty days from March 15th. This extension was made necessary because we did not receive the temporary bonds from the Company until April 1st. At the same time, the participants were also notified that the Syndicate restrictions as to the sale of the bonds would not be in effect after March 15th.

The profit of 1% accruing to the Purchasers was paid on April 5th. Checks in payment for the commission of ¾%, and profit of 1.1374% due participants, were mailed on April 11, 1923 and the Syndicate dissolved.

(Stamped) : Please return to syndicate department.

\$40,000,000 NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY FIRST MORTGAGE
4½% GOLD BONDS, SERIES B, DATED MAY 1, 1926, MATURING MAY 1, 1961

On May 12, 1926, we purchased from the Company, for account of ourselves and associates, \$40,000,000 of the above Notes at 91½% and interest. The Original Group consisted of the following for the amounts shown:

J. P. Morgan & Co.....	20%	\$8,000,000
Kidder, Peabody & Co.....	29.75%	11,900,000
Kuhn, Loeb & Co.....	10.75%	4,300,000
Lee, Higginson & Co.....	5%	2,000,000
Harris, Forbes & Co.....	5%	2,000,000
First National Bank.....	10%	4,000,000
National City Company.....	10%	4,000,000
Guaranty Company of N. Y.....	4.75%	1,900,000
Bankers Trust Company.....	4.75%	1,900,000
	<u>100%</u>	<u>\$40,000,000</u>

A managing fee of 5% of the gross spread of 3%, amounting to \$60,000 was charged against the Original Group Profit. Kidder, Peabody & Co. received one-quarter of this fee; \$15,000.

On the same day a Distributing Syndicate, composed of 540 participants, was formed to purchase these Notes from the above Group at 92½% and interest, and to offer them for public subscription at 94½% and interest.

A Selling Commission of ¾% was allowed participants on confirmed allotments. Participants were permitted to reallocate ¼% to other dealers, banking institutions and insurance companies only.

No arrangements were made for withdrawal. The usual clause regarding commission to be deducted from bonds repurchased in the open market for Syndicate Account was also inserted in the agreement.

Subscription books opened at our office at 10:00 o'clock A. M., May 13th, and closed at 10:10 o'clock A. M. the same day, with subscriptions totaling \$240,312,500 Bonds.

An arbitrary allotment was made on May 13th and the participants notified.

Payment for Bonds allotted was made at our office on May 26th, 1926, at 94½% and interest, against delivery of temporary Bonds in the denominations of \$1,000., \$500. and \$100. each.

The net profit accruing to the original Group was paid on May 28, 1926.

We made a total allotment of \$39,838,500. Bonds, leaving a balance of \$161,500. Bonds for sale.

We sold for account of Syndicate Account \$250,500. Bonds at 94½% and interest less ¼%, leaving Syndicate Account short \$89,000. Bonds, which were transferred from Syndicate Repurchase Account. We purchased in the open market \$160,500. Bonds.

After the transfer from Repurchase Account of the \$89,000. Bonds, there remained in Repurchase Account \$71,500. Bonds. We sold \$50,000. of these at 94½% and interest less ¼%, and \$21,500. Bonds were sold through the Stock Department at 94½% and interest.

The commission on \$160,000. Bonds was withheld from participants.

On July 8th the commission of ¾% and a profit of 1.1348% were paid participants and the account closed.

Following is an analysis of the distribution of the gross spread of 2%:

Commissions of ¾% on \$39,678,500 bonds.....	\$297,588.75	.74397%
Expenses transferred to Syndicate A/c.....	47,269.33	.11817%
Loss in trading.....	1,175.76	.00294%
Cash transferred to Syndicate Expenses Reserve Account.....	46.16	.00012%
Net profit paid participants.....	453,920.00	1.1348%
Total.....	\$800,000.00	2.0000%

(Stamped :) Please Return to Syndicate Department.

NORTHWESTERN BELL TELEPHONE COMPANY TWENTY-YEAR 7% FIRST MORTGAGE
SINKING FUND BONDS SERIES "A" SYNDICATE

Under date of January 8th, we and our associates purchased from the Company \$30,000,000, Northwestern Bell Telephone Company 20-year 7% First Mortgage Sinking Fund Series "A" Bonds at 92 and accrued interest. The Bonds were dated February 1st; interest payable February and August. On January 8th we formed a syndicate at 93 and interest to offer the bonds at 96½ and interest, less 1½% commission on allotments up to the amount of participation, and ½% additional commission on amounts allotted in excess of participation. Out of these commissions, participants were permitted to realow a commission of ¼%. The Bonds were offered on January 10, 1921; subscriptions were received to an amount of \$91,611,400. As subscriptions in small denominations were reported in what seemed to us an excessive proportion to the whole, allotment was made on a flat 30% basis instead of being scaled, as was theretofore our custom. Allotment letters were sent out on January 12th, calling for payment on January 19th at 96½, less 12 days' discount at the rate of 7% per annum. We credited the Company's account on our books for the purchase price and the Company drew checks on us. Pending the payment to the Company, we had advanced \$5,000,000. to the American Telephone & Telegraph Company and this advance was repaid on the 19th. Associated with us in the purchase on the original terms were the following:

	Percent- age	Original Group @ 92
Kidder, Peabody & Co.....	29.75	\$8,925,000
Kuhn, Loeb & Co.....	10.75	3,225,000
Lee, Higginson & Co.....	5.	1,500,000
Harris, Forbes & Co.....	5.	1,500,000
First National Bank, New York.....	10.	3,000,000
National City Company.....	10.	3,000,000
Guaranty Company of New York.....	4.75	1,425,000
Bankers Trust Company.....	4.75	1,425,000
J. P. Morgan & Company.....	20.	6,000,000

The 1% profit accruing to this Group was distributed on Monday, February 7th.

Stamped: Please Return to Syndicate Department.

\$50,000,000 BELL TELEPHONE COMPANY OF PENNSYLVANIA FIRST AND REFUNDING
MORTGAGE 5% GOLD BONDS, SERIES "C," DATED OCTOBER 1, 1925, AND DUE
OCTOBER 1, 1960

On September 16th, 1925, we purchased from The Bell Telephone Company of Pennsylvania \$50,000,000 of the above Bonds at 97% and interest.

Associated with us in the purchase, on original terms, were the following:

Kidder, Peabody & Co.....	29.75%	\$14,875,000.00
Kuhn, Loeb & Co.....	10.75%	5,375,000.00
Lee, Higginson & Co.....	5.00%	2,500,000.00
Harris, Forbes & Co.....	5.00%	2,500,000.00
The First National Bank of New York.....	10.00%	5,000,000.00
The National City Company.....	10.00%	5,000,000.00
Guaranty Company of New York.....	4.75%	2,375,000.00
Bankers Trust Company.....	4.75%	2,375,000.00
J. P. Morgan & Co.....	20.00%	10,000,000.00
	<u>100.00%</u>	<u>\$50,000,000.00</u>

On September 16th, 1925 a Syndicate was formed to purchase these Bonds from the Original Group at 98% and interest. The Syndicate offered these Bonds for public subscription at 100% and interest.

Participants were allowed a commission of $\frac{3}{4}\%$ on confirmed allotments. Out of this commission, participants were permitted to reallocate $\frac{1}{4}\%$ to dealers, banking institutions and insurance companies, only.

No arrangements were made for withdrawals.

The usual clause regarding commissions to be deducted on bonds repurchased in the open market for syndicate account was also inserted in the agreement.

Subscription books opened at our office at 10.00 o'clock A. M., Thursday, September 17th, 1925 and closed at 10.05 o'clock A. M., the same day, with subscriptions totalling \$321,521,500.

An arbitrary allotment was made on September 17th and participants notified.

Payment for the bonds allotted was made at our office on October 1st at par, against the delivery of temporary bonds.

A managing fee of 5% of the gross spread of 3% (\$75,000.) was charged against the profit accruing to the Original Group. We paid one-quarter of this amount (\$18,750.) to Messrs. Kidder, Peabody & Co.

The profit of 1%, less the managing fee due to the members of the Original Group, was paid on October 7th, 1925.

We allotted a total of \$49,989,700. Bonds, the balance being sold in the open market for Syndicate account.

On November 10th, 1925, the commission of $\frac{3}{4}\%$ and a profit of 1.1608% were paid to participants and the account closed.

The following is an analysis of the distribution of the gross spread of 2%:

Commission of $\frac{3}{4}\%$ on \$49,989,700. Bonds-----	\$374,922.75=	.74984%
Expenses transferred to Syndicate Account-----	\$44,628.15=	.08926%
Cash transferred to Syndicate Expenses Reserve Acct--	\$68.00=	.00014%
Net profit paid participants 1.1608%-----	\$580,400.00=	1.16080%
Total-----	*\$1,000,018.90=	2.00004%
*Including Gain in Trading-----	\$18.90=	.00004%

(Stamped:) Please Return to Syndicate Department.

\$50,000,000. SOUTHWESTERN BELL TELEPHONE COMPANY FIRST AND REFUNDING MORTGAGE THIRTY-YEAR 5% GOLD BONDS, SERIES "A," DUE FEBRUARY 1, 1954.

On January 25th, 1924, we purchased from the Southwestern Bell Telephone Company \$50,000,000 of the above Bonds at 90% and interest. The Original Group was composed of the following:

Kidder, Peabody & Co-----	29.75%	\$14,875,000.
Kuhn, Loeb & Co-----	10.75	5,375,000.
Lee, Higginson & Co-----	5.00	2,500,000.
Harris, Forbes & Co-----	5.00	2,500,000.
The First National Bank of New York-----	10.00	5,000,000.
The National City Company-----	10.00	5,000,000.
Guaranty Company of New York-----	4.75	2,375,000.
Bankers Trust Company-----	4.75	2,375,000.
J. P. Morgan & Co-----	20.00	10,000,000.
	<u>100.00</u>	<u>\$50,000,000.</u>

On the same day, a Distributing Syndicate was formed to take over these Bonds at 91% and interest and to offer them for public subscription at 93 $\frac{1}{2}\%$ and interest (5.45% yield).

A commission of 1% was allowed to syndicate participants on confirmed allotments. Participants were permitted to reallocate a commission of $\frac{1}{4}\%$ to dealers, banking institutions and insurance companies. Participants were permitted to pay this $\frac{1}{4}\%$ concession to insurance companies upon delivery of the Bonds, but were not permitted to pay it to dealers or banking institutions until the expiration of the syndicate.

No arrangements were made for withdrawals.

The usual clause regarding commission to be deducted on bonds purchased in the open market for syndicate account was inserted in the agreement.

Subscription books opened at our office at 10.00 o'clock A. M., January 28th, 1924 and closed at 10.01 o'clock A. M., the same day, with subscriptions totalling \$254,297,200.

Allotments were made arbitrarily.

Payment for bonds allotted was made at our office at 93½% and accrued interest against delivery of the temporary bonds of the Company.

A managing fee of ⅓%, amounting to \$62,500., was charged against the profit accruing to the Original Group, Messrs. Kidder, Peabody & Co. receiving one-quarter of this fee.

The profit accruing to the Original Group was paid on March 7th, 1924.

Of the total allotment of \$49,656,700., we purchased in the open market for syndicate account \$2,109,500., the commission being deducted upon \$1,849,500. of the latter amount.

The commission of 1% and a profit of 1.4076% were paid on April 9th, 1924 and the account closed.

The following is the analysis of the distribution of the gross spread of 2½% :

Commission of 1% on \$47,807,200. Bonds-----	\$478,072.00	.95614%
Expenses transferred to Syndicate Account-----	59,730.73	.10146%
Loss in trading-----	17,390.09	.03478%
Cash transferred to Syndicate Expenses Reserve Account-----	7.18	.00002%
Net profit paid Participants-----	703,800.00	1.40760%
Total-----	<u>\$1,250,000.00</u>	<u>2.50000%</u>

Stamped: Please Return to Syndicate Department.

\$125,000,000. AMERICAN TELEPHONE AND TELEGRAPH COMPANY THIRTY-FIVE YEAR SINKING FUND 5% GOLD DEBENTURES, DATED JANUARY 1, 1925 AND DUE JANUARY 1, 1960

On January 7th, 1925, we purchased from the American Telephone and Telegraph Company \$125,000,000. of the above debentures at 91½% and accrued interest. Associated with us in the purchase, on original terms, were the following for the amounts shown:

J. P. Morgan & Co-----	20.00%	\$25,000,000.
Kidder, Peabody & Co-----	29.75%	37,187,500.
Kuhn, Loeb & Co-----	10.75%	13,437,500.
The National City Company-----	10.00%	12,500,000.
The First National Bank of New York-----	10.00%	12,500,000.
Lee Higginson & Co-----	5.00%	6,250,000.
Harris, Forbes & Co-----	5.00%	6,250,000.
Guaranty Company of New York-----	4.75%	5,937,500.
Bankers Trust Company-----	4.75%	5,937,500.
	<u>100.00%</u>	<u>\$125,000,000.</u>

A managing fee of 5% of the gross spread of 3½%, amounting to \$218,750, was charged against the Original Group profit. Kidder, Peabody & Co. received one-quarter of this fee.

On January 7th, 1925 a Distributing Syndicate composed of 739 members was formed to purchase these debentures from the Original Group at 92½% and accrued interest, and to offer them for public subscription at 95% and accrued interest (5.30% yield).

A selling commission of 1% was allowed participants on confirmed allotments. Participants were permitted to reallow a commission of ¼% to dealers, banking institutions and insurance companies.

No arrangements were made for withdrawals.

The usual clause regarding commission to be deducted on debentures in the open market for syndicate account was also inserted in the agreement.

Subscription books opened at our office at 10.00 o'clock A. M., January 8, 1925 and closed at 10.45 o'clock A. M., the same day, with subscriptions totalling \$392,194,300..

Allotments were made arbitrarily (approximately 30% to 35% (approximately 30% to 35%)) and participants notified on January 9th, 1925. We made a total allotment of \$129,144,500.

Payment for debentures allotted was made at our office on January 22nd, 1925 at 95% and interest against the delivery of temporary debentures.

The profit of .825% (1% less the management fee) was paid to the Original Group on January 23rd, 1925.

Of the total allotment of \$129,144,500. Debentures, we repurchased in the open market for syndicate account \$4,145,500. Debentures at prices ranging from 95% and interest to 96% and interest.

We deducted commissions on \$880,000. of the debentures repurchased for syndicate account.

The commission of 1% on the net allotment of \$128,264,500. Debentures and the profit of 1.3838% were paid on April 9th, and the account closed.

The following is the analysis of the distribution of the gross spread of 2½% in the Syndicate:

Commission of 1% on \$126,264,500. Debentures paid--	\$1,282,645.00=1.02611%
Expense transferred to Syndicate Account-----	72,561.80= .05806%
Loss in Trading-----	39,868.59= .03189%
Cash transferred to Syndicate Expenses Reserve A/c--	174.61= .00014%
Net Profit paid participants 1.3838%-----	1,729,750.00=1.38380%
Total -----	<u>\$3,125,000.00=2.50000%</u>

(Stamped:) Please Return To Syndicate Department.

**\$100,000,000 AMERICAN TELEPHONE & TELEGRAPH COMPANY 20-YEAR SINKING FUND
5½% GOLD DEBENTURE BONDS, DATED NOVEMBER 1, 1923, DUE NOVEMBER 1, 1943,
INTEREST PAYABLE MAY & NOVEMBER**

On November 2nd, 1923, we purchased from the American Telephone & Telegraph Company \$100,000,000 of the above Debenture Bonds at 94¾% and interest. Members of the original group were as follows for the amounts shown:

Kidder, Peabody & Co-----	29.75%	\$29,750,000
Kuhn, Loeb & Co-----	10.75%	10,750,000
National City Co-----	10.00%	10,000,000
First National Bank-----	10.00%	10,000,000
Lee, Higginson & Co-----	5.00%	5,000,000
Harris, Forbes & Co-----	5.00%	5,000,000
Guaranty Company-----	4.75%	4,750,000
Bankers Trust Company-----	4.75%	4,750,000
J. P. Morgan & Co-----	20.00%	20,000,000

On the same day a distributing syndicate was formed to take over these Debentures at 95¾% and interest, and to offer them for public subscription at 98½% and interest. A selling commission of 1¼% was allowed participants on confirmed allotments. A commission of ¼% was permitted to be given up to dealers, banking institutions and insurance companies only.

No arrangements were made for withdrawals. The usual clause regarding the withholding of commissions on Debentures repurchased in the open market for Syndicate Account was also inserted.

Subscription books were opened at our office ten o'clock A. M., Monday, November 5th, and closed twelve o'clock the same day, with subscriptions totaling \$194,606,200.

On November 5th, after an arbitrary allotment had been made (an approximate 50% allotment) participants were notified to make payment at our office on November 15th at 98½% and interest, against delivery of our Interim Receipts.

In payment of the amount due for the Debentures allotted, we offered to accept from subscribers American Telephone & Telegraph Company 5-Year 6% Notes, due February 1, 1924 in bearer form, with February 1, 1924 coupon attached at 100.24406% and accrued interest (\$1,019.77 per \$1,000 Note). The maturing 5-Year Notes were not accepted of a par value exceeding the par value of Debentures allotted.

The profit of 1% accruing to the Original Group was paid on November 23, 1923. Of a total allotment of \$101,990,900 Bonds we repurchased in the open

market for Syndicate Account \$2,300,900 Bonds. Of the Bonds repurchased we deducted commissions on \$2,290,900 Bonds. The commission of $1\frac{1}{4}\%$ and a profit of 1.4134% due Syndicate participants was paid on December 15, 1923 and the account closed.

Following is an analysis of the gross spread of $2\frac{3}{4}\%$:

Commissions of $1\frac{1}{4}\%$ on \$99,700,000 Bonds paid, Dec. 15, 1923-----	\$1,246,250.00=1.246250%
Expenses Transferred to Syndicate Account, Dec. 11, 1923-----	80,956.87= .080957%
Loss in trading-----	9,227.10= .009227%
Cash transferred to Syndicate Expenses Reserve Account, Dec. 12, 1923-----	166.03= .000166%
Net profit paid participants, Dec. 15, 1923-----	1,413,400.00=1.413400%
Total-----	\$2,750,000.00=2.75%

\$25,000,000

BELL TELEPHONE COMPANY OF PENNSYLVANIA

TWENTY-FIVE YEAR FIRST AND REFUNDING MORTGAGE 7% SINKING FUND GOLD BONDS SERIES "A" SYNDICATE

Under date of September 29th, 1920, we entered into a contract with the Bell Telephone Company of Pennsylvania under the terms of which we agreed to purchase, for account of ourselves and associates, \$25,000,000. of the Company's 25-year First and Refunding Mortgage 7% Bonds, Series A, at $90\frac{1}{2}$ and accrued interest. We formed a Syndicate under the same date to purchase the bonds from us at $91\frac{1}{2}$ and accrued interest and to offer them at 95 and interest. Selling commissions of $1\frac{1}{2}\%$ were allowed on confirmed allotments, on which commission participants were permitted to realow $\frac{1}{4}\%$ to dealers or banking institutions. The Syndicate expires December 1st, 1920. The books of the issue were opened September 30th, 1920 and closed the same date at 1.00 P. M. with subscriptions of \$68,402,300. Allotments were made as follows:

\$100 to \$1,000 inclusive, in full.

\$1,100 to \$100,000 inclusive, 30%, minimum \$1,000.

\$100,000 up inclusive, 20% minimum, \$30,000.

and allotment letters were sent out on October 5th calling for payment on October 14th.

1% profit accruing to the original Group was paid on October 26th in the following proportions:

<i>Names</i>	<i>Percentage</i>
Kidder, Peabody & Company-----	29 $\frac{3}{4}$
Kuhn, Loeb & Company-----	10 $\frac{3}{4}$
Lee, Higginson & Company-----	5
Harris, Forbes & Company-----	5
First National Bank, N. Y.-----	10
National City Company-----	10
Guaranty Trust Company-----	4 $\frac{3}{4}$
Bankers Trust Company-----	4 $\frac{3}{4}$
J. P. Morgan & Company-----	20

As the issue had not been formally ratified by the stockholders, the proceeds of the bonds were not immediately available to the Company. The American Telephone & Telegraph Company borrowed \$11,000,000 from us, repayable December 9th. It was originally arranged that they should pay 7% interest on the loan and should be allowed 7% interest on an account to be set up for an amount equal to the loan and 3% interest on the balance of the funds. Mr. Porter objected to having an account on the books bearing interest at such a high rate, and it was finally figured that, by charging 5% on the loan and allowing 4% on the entire proceeds, practically the same amount of interest would accrue.

(Stamped:) Please return to syndicate department.

\$50,000,000 ILLINOIS BELL TELEPHONE COMPANY FIRST & REFUNDING MORTGAGE
5% GOLD BONDS, SERIES "A", DUE JUNE 1, 1956

On June 14th, 1923, we purchased from the Illinois Bell Telephone Company \$50,000,000 of the above Bonds at 92% and interest. Associated with us in the purchase on original terms were the following for the amounts shown:

Kidder, Peabody & Co.....	29.75%	\$14,875,000
Kuhn, Loeb & Co.....	10.75	5,375,000
The National City Co.....	10.00	5,000,000
First National Bank.....	10.00	5,000,000
Lee, Higginson & Co.....	5.00	2,500,000
Harris, Forbes & Co.....	5.00	2,500,000
Guaranty Company.....	4.75	2,375,000
Bankers Trust Co.....	4.75	2,375,000
J. P. Morgan & Co.....	20.00	10,000,000

On the same day a Distributing Syndicate was formed to take over these Bonds at 93% and accrued interest, and to offer them for public subscription at 95¼ and interest.

A selling commission of 1% was allowed participants on confirmed allotments, one-half of which was permitted to be given up to dealers, banking institutions and insurance companies, only.

The usual clause regarding commissions on bonds repurchased in the market for Syndicate Account was also inserted. Subscription books opened at our office on June 15th, and were closed at 10:30 A.M. the same day, with subscriptions totalling \$126,984,200 Bonds.

Allotments were made arbitrarily, participants being notified on June 15th to pay us, on June 28th at our office, at 95¼% and interest, against delivery of temporary bonds.

The total Bonds allotted amounted to \$51,168,000 Bonds.

It was agreed that we would take Chicago Telephone Company First Mortgage 5% Bonds, due December 1, 1923, with the final coupon attached, at 100% and interest in payment for all or any part of the amount due.

The 1% profit accruing to the Purchasers was paid on July 24th.

\$819,000 Bonds were purchased in the market, Guaranteed Investment, at prices ranging from 94¾ to 95 and interest. \$3,539,000 Bonds were purchased in the market for Syndicate Repurchase Account at 95¼ and interest, of which the commission of 1% was withheld upon \$3,475,000 Bonds.

Commission of 1% on \$47,693,000 Bonds, being the net allotment, amounting to \$476,930, and a profit of 1.106%..amounting to \$553,000, was paid on August 15th and the account closed.

Following is the analysis of distribution of the gross spread of 2¼%:

Commission of 1% on \$47,653,000 Bonds paid Aug. 15th.....	\$476,530.00=	.95306%
Expenses transferred to Syndicate Account Aug. 8th.....	58,696.44=	.117393%
Loss in Trading.....	36,685.32=	.073371%
Cash transferred to Syndicate Expenses, Reserve Ac- count, Aug. 8th.....	88.24=	.00017%
Net profit paid, August 15th.....	553,000.00=	1.106%
	<hr/>	
	\$1,125,000.00	2.250000%

(Stamped:) Please return to syndicate department.

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY REFUNDING MORTGAGE THIRTY YEAR 5% GOLD BONDS, SERIES "A", DATED MAY 1, 1922, DUE MAY 1, 1952, INTEREST PAYABLE MAY 1 & NOVEMBER 1.

Under date of May 2nd, we purchased from the Pacific Telephone and Telegraph Company \$25,000,000 of the above bonds at 91% and interest. Associated with us in this purchase were the following for the amounts shown:

J. P. Morgan & Co.....	\$5,000,000
Kidder, Peabody & Co.....	7,437,500
Kuhn, Loeb & Company.....	2,687,500
Lee, Higginson & Co.....	1,250,000
Harris, Forbes & Co.....	1,250,000
First National Bank, N. Y.....	2,500,000
National City Company.....	2,500,000
Guaranty Company.....	1,187,500
Bankers Trust Company.....	1,187,500
	<hr/>
	\$25,000,000

On the same day, a Distributing Syndicate was formed to take over these bonds at 92% and accrued interest, and to offer them for public subscription at 94% and interest.

Commission of $\frac{3}{4}\%$ was allowed participants on confirmed allotments, out of which $\frac{1}{4}\%$ was permitted to be re-allowed to dealers, banking institutions and insurance companies only.

The usual clause regarding bonds purchased in the market for syndicate account was also inserted. No arrangements were made for withdrawals.

Subscription books opened at our office 10:00 o'clock A. M. on May 3rd, 1922 and were closed immediately with subscriptions totaling \$187,423,900.

On May 4th, after participants were allotted 10% of their total subscriptions. (Pacific Coast participants were given special allotments) letters were sent out calling for payment to be made at our office on May 11th, against delivery of our Trust Receipts.

The Syndicate expired July 15th, 1922.

A profit of 1% accruing to the purchasers was paid on May 24th. A commission of $\frac{3}{4}\%$ on \$23,249,700 net Bonds allotted was paid on July 18th. We allotted \$24,817,700 Bonds, of which \$1,575,000 were repurchased as follows:

Bonds purchased on which commissions were withheld.....	\$1,568,000
Bonds repurchased and sold for Syndicate Account and repurchased a second time on which no commissions were withheld.....	<hr/> 7,000
	\$1,575,000

The profit of 1.029%, amounting to \$257,250, was paid on July 22nd and the account closed.

Following is an analysis of the distribution of the gross spread of 2%:

Commissions of $\frac{3}{4}\%$ on \$23,249,700 Bonds.....	\$174,372.75 = .697491%
Expenses transferred to Syndicate Account.....	33,830.01 = .13532%
Loss in trading.....	34,324.28 = .1372971%
Cash transferred to Syndicate Expenses Reserve Account.....	<hr/> 222.96 = .0008918%
Net profit paid participants.....	257,250.00 = 1.029%
	<hr/>
	\$500,000.00 = 1.999999 %

(Stamped :) Please Return to Syndicate Department.

\$35,000,000. NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY FIRST MORTGAGE THIRTY-YEAR 5% GOLD BONDS, SERIES "A." (INTEREST PAYABLE JUNE AND DECEMBER)

June 28, 1922.

Under date of May 24th, 1922, we purchased from the New England Telephone and Telegraph Company \$35,000,000. of the above bonds at 94½ and interest. Associated with us in this purchase on original terms were the following for the amounts shown :

Kidder, Peabody & Company-----	\$10,412,500
Kuhn, Loeb & Company-----	3,762,500
Lee, Higginson & Company-----	1,750,000
Harris, Forbes & Company-----	1,750,000
The First National Bank of New York-----	3,500,000
The National City Company-----	3,500,000
Guaranty Company of New York-----	1,662,500
Bankers Trust Company-----	1,662,500
J. P. Morgan & Company-----	7,000,000
	<hr/>
	\$35,000,000
	<hr/>

Under the same date a Distributing Syndicate was formed to purchase these bonds from the Original Group at 95½% and interest, and to offer them for public subscription at 97½% and interest.

A commission of ¾% was allowed participants on confirmed allotments. Participants were permitted to realow ¼% to dealers, banking institutions and insurance companies only. No arrangements were made for withdrawals. The usual clause regarding bonds purchased in the market for syndicate account was also inserted.

Syndicate expires August 1, 1922 or earlier, or may be extended for not more than sixty days.

Subscription books opened at our office 10.00 o'clock A. M., May 25th, and were closed immediately with subscriptions totaling \$259,395,800.

On the same day, after an arbitrary allotment had been made, allotment letters were sent out calling for payment to be made at our office on June 9th, against delivery of Temporary Bonds.

On June 28th, the 1% profit accruing to the Purchasers was paid.

On August 1st, the commission of ¾% on \$33,262,000. Bonds, amounting to \$249,465. was paid. The total bonds allotted amounted to \$34,912,000., of which \$1,650,000. were repurchased for Syndicate Account and the commission deducted.

On August 9th, a profit of 1.1374%, amounting to \$398,090. was paid and the account closed.

Analysis of distribution of gross spread of 2% in the \$35,000,000. New England Telephone and Telegraph Company First Mortgage Thirty-Year 5% Gold Bonds, Series A.

Commissions of ¾% on \$33,262,000. Bonds paid August 1, 1922-----	\$249,465.	= .71276%
Expenses transferred to Syndicate Account, August 4, 1922-----	\$38,450.34=	.10986%
Loss in trading-----	\$13,753.69=	.03929%
Cash transferred to Syndicate Expenses Reserve Account, August 4, 1922-----	\$240.97=	.00069%
Net Profit paid Participants, August 9, 1922-----	\$398,090.00=	1.1374%
	<hr/>	
Total-----	\$700,000.	=2. %

(Stamped :) Please Return to Syndicate Department.

NEW YORK TELEPHONE COMPANY REFUNDING MORTGAGE TWENTY YEAR 6% GOLD BONDS, SERIES A, SYNDICATE

Under date of November 12, 1921, we purchased \$50,000,000. of the above bonds from the New York Telephone Company at 93 and interest, payment to be made not later than November 28th against delivery of temporary bonds.

Associated in this purchase were the following for the amounts indicated:

Kidder, Peabody & Co.....	\$14,875,000
Kuhn, Loeb & Company.....	5,375,000
Lee, Higginson & Co.....	2,500,000
Harris, Forbes & Co.....	2,500,000
First National Bank.....	5,000,000
National City Company.....	5,000,000
Guaranty Company.....	2,375,000
Bankers Trust Company.....	2,375,000
J. P. Morgan & Company.....	10,000,000

These interests were based on their commitments in the Northwestern Bell Telephone Company financing.

On November 12th, 1921 a syndicate was formed to purchase the bonds at 94 and interest, and to offer them to the public at 97 and interest. A commission of 1% was allowed on confirmed allotments, of which $\frac{1}{4}\%$ was reallowable to dealers and banking institutions. The syndicate to expire February 1, 1922, or earlier in the discretion of the Managers.

The subscription books opened at 10 o'clock A. M., Tuesday, November 12th, and closed immediately with subscriptions amounting to \$488,966,300. Allotments were made as follows:

\$100 to and including \$2,500 Bonds receive 20%, minimum \$100 Bonds.

\$2,600 to and including \$75,000 Bonds receive 10%, minimum \$500 Bonds.

\$75,100 and over receive 5%, minimum \$7,500 Bonds.

Allotments on subscriptions up to \$10,000 were adjusted to nearest \$100 and on larger subscriptions to nearest \$500.

Allotment letters were sent out on November 17th calling for payment on November 28th, against delivery of temporary Bonds.

Profit of 1% accruing to the Purchasing Group was paid on December 1st, 1921. On \$370,000 Bonds a commission of only $\frac{1}{4}\%$ was allowed and this was adjusted at the time of payment. \$175,400 Bonds were sold in the market for Syndicate Account at prices ranging from $99\frac{1}{2}\%$ and interest to $100\frac{1}{2}\%$ and interest.

Expenses amounted to \$62,283.35.

Commission of 1% amounting to \$494,546, and a profit of 1.8954% amounting to \$947,700 was paid on December 23rd and the account closed.

\$32,000,000 SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY FIRST MORTGAGE SINKING FUND 5% GOLD BONDS, DATED JANUARY 2, 1911, AND DUE JANUARY 1, 1941.

On October 17, 1929, we contracted to purchase from the Southern Bell Telephone and Telegraph Company \$32,000,000 of the above bonds at $97\frac{1}{4}\%$ and accrued interest.

The Original Group was composed of the following:

			Profit	Commission on sales to insurance companies
J. P. Morgan & Co.....	20.00%	\$6,400,000	\$55,200	\$11,844
Kidder, Peabody & Co.....	29.75%	9,520,000	82,110	17,617.95
Kuhn, Loeb & Co.....	10.75%	3,440,000	29,670	6,366.15
The National City Company.....	10.00%	3,200,000	27,600	5,922
The First National Bank of New York.....	10.00%	3,200,000	27,600	5,922
Lee, Higginson & Co.....	5.00%	1,600,000	13,800	2,961
Harris, Forbes & Co.....	5.00%	1,600,000	13,800	2,961
Guaranty Trust Company of New York.....	4.75%	1,520,000	13,110	2,812.95
Bankers Company of New York.....	4.75%	1,520,000	13,110	2,812.95
	100.00%	\$32,000,000	276,000	59,220

NOTE—Last 2 columns are hand written.

No syndicate was formed, the bonds being offered through a selected list of dealers and banking institutions at 100% and accrued interest, for a gross commission of $1\frac{3}{4}\%$, out of which we reserved the right to retain not in excess of $\frac{1}{4}\%$ for expenses. Out of the gross commission of $1\frac{3}{4}\%$ not in excess of $\frac{1}{4}\%$ could be reallocated to dealers, banking institutions or insurance companies.

It was arranged that we sell to insurance companies, for account of the Original Group, \$4,500,000 of the above bonds at 100%, less $\frac{1}{4}\%$; the balance of the net selling commission to be divided among the members of the Original Group in proportion to their respective interests. The remaining bonds were reserved for purchase by the special list of dealers until 12.00 o'clock, noon, October 18, 1929.

The total subscriptions, including withdrawals, aggregated \$32,390,000 bonds.

Payment was called for at our office on November 1, 1929, against delivery of temporary bonds of the company.

The usual clause regarding bonds repurchased in the open market was included in the offering letter.

We retained as our compensation for organizing and managing the business 5% of the gross spread of $2\frac{3}{4}\%$, amounting to \$44,000, which was charged to the Original Group on November 1, 1929. Out of this managing commission, we ceded one-quarter to Kidder, Peabody & Co., amounting to \$11,000.

The Selling Group account was terminated on November 16, 1929, and the net commission of 1.566% paid on December 6, 1929, and the account closed.

The net profit of \$275,000, together with the net selling commission on the sale of \$4,500,000 bonds to insurance companies amounting to \$59,220, was paid to members of the Original Group on December 6, 1929, and the account closed.

The following is an analysis of the distribution of the gross spread of $2\frac{3}{4}\%$:

Managing fee of 5% of gross spread.....	\$44,000.00	.1375%
Commission of 1.566% on \$32,390,000 bonds.....	507,227.40	1.585085%
Expenses transferred to Syndicate Account.....	48,019.16	.150060%
Loss in Trading.....	3,779.05	.011810%
Cash transferred to Syndicate Expenses Reserve Acct.....	974.39	.003045%
Net profit paid participants.....	276,000.00	.8625%
	<u>\$880,000.00</u>	<u>2.75%</u>

(Handwritten:)

J. P. M. & Co.'s Profit

Account of Managing Comm.....	\$33,000
Account of Original Group.....	67,044
Account of Selling Group.....	60,828.90
	<u>\$160,872.90</u>

**\$150,000,000 AMERICAN TELEPHONE AND TELEGRAPH COMPANY THIRTY-FIVE YEAR
5% GOLD DEBENTURES DATED FEBRUARY 1, 1930, DUE FEBRUARY 1, 1965,
SYNDICATE**

On January 10, 1930, we purchased from the American Telephone and Telegraph Company \$150,000,000. of the above debentures at 96½% and accrued interest.

The members of the Original Group were as follows:

Kidder, Peabody & Co-----	29.75%	\$14,625,000.
Kuhn, Loeb & Co-----	10.75%	16,125,000.
The National City Company-----	10.00%	15,000,000.
First National Bank, New York-----	10.00%	15,000,000.
Lee, Higginson & Co-----	5.00%	7,500,000.
Harris, Forbes & Co-----	5.00%	7,500,000.
Guaranty Company of New York-----	4.75%	7,125,000.
Bankers Company of New York-----	4.75%	7,125,000.
J. P. Morgan & Co-----	20.00%	30,000,000.
	<u>100.00%</u>	<u>\$150,000,000.</u>

On the same day, a Distributing Syndicate of 960 participants was formed to take over these debentures at 97½% and accrued interest and to offer them for public subscription at 99½% and accrued interest.

A selling commission of 1¼% was allowed participants on confirmed allotments, of which they could realow ¼% to dealers, banking institutions and insurance companies, only.

No arrangements were made for withdrawals.

The usual clause regarding commissions to be deducted on debentures repurchased in the open market for syndicate account was also inserted.

Subscription books were opened at our office at 10.00 o'clock A. M., January 13, 1930, and closed at 10.30 o'clock, A. M., the same day, with subscriptions totalling \$496,618,500., against which allotments of \$150,566,800. debentures were made.

Payment for debentures allotted was made at our office on January 28, 1930, @ 99½%, less an amount equal to interest @ 5% from January 28th to February 1st, against delivery of temporary Debentures.

A managing fee of \$225,000., being 5% of the gross spread of 3%, was charged against the profit accruing to the Original Group, of which Kidder, Peabody & Co. received \$56,250.

The Original Group profit of \$1,275,000. was paid on February 15, 1930.

The syndicate was terminated on February 15, 1930.

We repurchased in the open market for Special Repurchase Account \$566,800. debentures, on which no commission was deducted.

The commission of 1¼% and a profit of .684% were paid to participants on February 15, 1930, and the account closed.

The following is an analysis of the distribution of the gross spread of 2% in the syndicate:

Commissions of 1¼% on \$150,566,800. Debentures--	\$1,882,085.00	1.25472%
Expenses transferred to Syndicate Account-----	79,200.03	.05280%
Loss in trading-----	10,440.76	.00696%
Cash transferred to Syndicate Expenses Reserve		
Acct-----	2,274.21	.00152%
Net Profit paid participants .684%-----	1,026,000.00	.68400%
	<u>\$3,000,000.00</u>	<u>2.00000%</u>

Messrs. Kidder, Peabody & Co. handled the wholesaling for all of the New England States.

EXHIBIT No. 1687

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Percentage Participations in Issues of American Telephone & Telegraph Co. and Associated Companies Headed by J. P. Morgan & Co., September, 1920—January, 1930

Issue	Amount	Date	J. P. Morgan & Co.	First National Bank	National City Co.	Kuhn, Loeb & Co.	Harris Forbes & Co.	Lee, Higginson & Co.	Guaranty Co.	Bankers Trust Co.	Kidder, Peabody & Co.
Bell Telephone Co. of Pa. 7s of 1945-----	\$25,000,000	9/29/20	20.00	10.00	10.00	10.75	5.00	5.00	14.75	4.75	29.75
Northwestern Bell Telephone Co. 7s of 1941-----	30,000,000	1/8/21	20.00	10.00	10.00	10.75	5.00	5.00	4.75	4.75	29.75
New York Telephone Co. 6s of 1941-----	50,000,000	11/12/21	20.00	10.00	10.00	10.75	5.00	5.00	4.75	4.75	29.75
Pacific Telephone & Telegraph Co. 5s of 1952-----	25,000,000	5/24/22	20.00	10.00	10.00	10.75	5.00	5.00	4.75	4.75	29.75
New England Telephone & Telegraph Co. 5s of 1952-----	35,000,000	5/24/22	20.00	10.00	10.00	10.75	5.00	5.00	4.75	4.75	29.75
Bell Telephone Co. of Pa. 25 yr of fs-----	35,000,000	1/10/23	20.00	10.00	10.00	10.75	5.00	5.00	4.75	4.75	29.75
Illinois Bell Telephone Co. 5s of 1958-----	50,000,000	6/14/23	20.00	10.00	10.00	10.75	5.00	5.00	4.75	4.75	29.75
American Telephone & Telegraph Co. 5½s of 1943-----	100,000,000	11/2/23	20.00	10.00	10.00	10.75	5.00	5.00	4.75	4.75	29.75
Southern Bell Telephone Co. 5s of 1954-----	59,000,000	1/25/24	20.00	10.00	10.00	10.75	5.00	5.00	4.75	4.75	29.75
American Telephone & Telegraph Co. 5s of 1960-----	125,000,000	1/7/25	20.00	10.00	10.00	10.75	5.00	5.00	4.75	4.75	29.75
Bell Telephone Co. of Pa. 5s of 1950-----	50,000,000	9/16/25	20.00	10.00	10.00	10.75	5.00	5.00	4.75	4.75	29.75
New England Telephone & Telegraph Co. 4½s of 1961-----	40,000,000	5/12/26	20.00	10.00	10.00	10.75	5.00	5.00	4.75	4.75	29.75
Southern Bell Telephone & Telegraph Co. 5s of 1941-----	32,000,000	10/17/29	20.00	10.00	10.00	10.75	5.00	5.00	4.75	4.75	29.75
American Telephone & Telegraph Co. 5s of 1965-----	150,000,000	1/10/30	20.00	10.00	10.00	10.75	5.00	5.00	4.75	4.75	29.75

1 Guaranty Trust Company.

2 Bankers Company.

Source: From records of financing supplied to the Temporary National Economic Committee by J. P. Morgan & Co.

EXHIBIT No. 1688

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Issues of American Telephone & Telegraph Co. and Associated Companies Headed by J. P. Morgan & Co., 1920-1930—Length of Time Syndicate Banks Were Open and Relation of Subscriptions to Offering.

Issue	Date of Contract	Amount of Issue	Amount of Subscriptions	Length of Time Books Open		Length of Time Books Open	Number of Times Issue Over-subscribed
				Date	Time Opened	Time Closed	
Bell Telephone Co. of Pa. 25 yr. 7s.	9/29/20	\$25,000,000	\$88,402,300	9/30/20	10:00 A.M.	1:00 P.M.	2.7
Northwestern Bell Tel. Co. 20 yr. 7s.	1/8/21	30,000,000	91,611,400	(1)	(1)	(1)	3.1
N. Y. Telephone Co. 20 yr. 6s.	11/12/21	50,000,000	488,966,300	5/3/22	10:00 A.M.	Immediately	9.8
Pacific Tel. & Tel. Co. 35 due 1952	5/2/22	25,000,000	187,423,900	5/3/22	10:00 A.M.	Immediately	7.5
New England Tel. & Tel. Co. 30 yr. 5s.	5/24/22	35,000,000	259,395,800	6/15/23	10:00 A.M.	10:30 A.M.	7.4
Illinois Bell Tel. Co. 35 due 1956	6/14/23	50,000,000	126,984,200	1/11/23	10:00 A.M.	11:05 A.M.	2.5
Bell Telephone Co. of Pa. 25 yr. 6s.	1/10/23	35,000,000	152,051,600	1/15/23	10:00 A.M.	12:00 noon	4.3
American Tel. & Tel. Co. 30 yr. 5s.	1/12/23	100,000,000	194,606,200	1/28/24	10:00 A.M.	10:01 A.M.	1.9
Southwestern Bell Tel. Co. 30 yr. 5s.	1/25/24	50,000,000	254,297,200	1/8/25	10:00 A.M.	10:45 A.M.	5.1
American Tel. & Tel. Co. 35 due 1960	1/7/25	125,000,000	392,194,300	9/17/25	10:00 A.M.	10:05 A.M.	3.1
Bell Telephone Co. of Pa. 35 due 1960	9/16/25	50,000,000	321,521,500	5/13/26	10:00 A.M.	10:10 A.M.	6.4
New England Tel. & Tel. Co. 35 due 1961	5/12/26	40,000,000	240,312,500	(1)	(1)	(1)	6.0
Southern Bell Tel. & Tel. Co. 35 due 1941	10/17/29	32,000,000	\$ 32,390,000	1/13/30	10:00 A.M.	10:30 A.M.	1.0
American Tel. & Tel. Co. 35 due 1965	1/10/30	150,000,000	496,618,500				3.3

: Not available.

: No syndicate was formed, the bonds being offered through a selected list of dealers and banking institutions.

Source: Compiled from data supplied by J. P. Morgan & Co.

EXHIBIT No. 1689-1

[From the files of J. P. Morgan & Co.]

[Copy]

Please Return to Syndicate Department

**\$2,155,000 UNITED STATES TELEPHONE COMPANY FIRST MORTGAGE 7% GOLD BONDS
EXTENDED TO JULY 1, 1941**

On October 25th, 1921, we entered into an agreement with The Ohio Bell Telephone Company to underwrite the extension for twenty years at 7% of \$2,155,000. United States Telephone Company First Mortgage 7% Gold Bonds, to mature July 1, 1941 for a commission of 5% of the aggregate principal amount, reserving the right to pay any part of this commission to holders of the maturing bonds as a consideration for their extending.

We were joined in the underwriting on original terms by the following for the amounts shown:

The First National Bank of N. Y-----	(22½%) --	\$484, 875
The National City Company-----	(22½%) --	484, 875
Huntington National Bank, Columbus, Ohio----	(10%) --	215, 500
J. P. Morgan & Co-----	(45%) --	969, 750
		<hr/>
		<u>\$2, 155, 000</u>

It was finally decided not to allow extending bondholders any commission and holders desiring to avail themselves of the privilege of extension were required to present bonds to us not later than November 26, 1921, retaining the coupon and cashing it on its due date in the usual manner. On and prior to December 1, 1921, we purchased at par and accrued interest the bonds of holders who did not desire to extend.

The extended coupon bonds are issued in the denomination of \$1,000, registerable as to principal and exchangeable for fully registered bonds; interest to be payable January 1st and July 1st in New York, Columbus or Cleveland, Ohio.

The bonds are redeemable at the option of The Ohio Bell Telephone Company as a whole, but not in part, on and after July 1, 1926, at 103½% and accrued interest.

The cost of the preparation of the extension contracts and coupon sheets and of the attaching thereof to the maturing bonds, and the cost of the necessary United States Internal Revenue stamps, was borne by The Ohio Bell Telephone Company.

On October 28th, 1921, the commission of 5% less expenses, amounting to \$106,446.45, was distributed to the Original Group.

Up to June 28th, 1922, we had purchased \$1,163,000 bonds which were sold at various prices leaving a credit in the account of \$32,934.38, which was distributed on June 28th.

On that date there remained outstanding \$5,000 bonds.

The remaining \$5,000 bonds were subsequently deposited, leaving a profit of \$723.65, which was distributed on July 16, 1924.

EXHIBIT No. 1689-2

[From the files of J. P. Morgan & Co.]

[Copy]

Please Return to Syndicate Department

**\$2,676,000 CUYAHOGA TELEPHONE COMPANY FIRST MORTGAGE 7% GOLD BONDS
EXTENDED TO JULY 1, 1941**

On October 25, 1921, we entered into an agreement with The Ohio Bell Telephone Company to underwrite the extension for twenty years at 7% of \$2,676,000 Cuyahoga Telephone Company First Mortgage 7% Gold Bonds, to mature July 1st, 1941; for a commission of 5% of the aggregate principal

amount, reserving the right to pay any part of this commission to holders of the maturing bonds as a consideration for their extending.

We were joined in the underwriting on original terms by the following for the amounts shown:

First National Bank-----	(22½%)--	\$602,100
National City Company-----	(22½%)--	602,100
Huntington Nat'l Bk., Columbus Ohio-----	(10%)--	267,600
J. P. Morgan & Company-----	(45%)--	1,204,200
		<hr/> \$2,676,000

It was finally decided not to allow extending bondholders any commission and holders desiring to avail themselves of the privilege of extension were required to present bonds to us not later than November 26th, 1921, retaining the coupon and cashing it on its due date in the usual manner. On and prior to December 1st, 1921, we purchased at par and accrued interest the bonds of holders who did not desire to extend.

The extended coupon bonds are issued in the denomination of \$1,000, registerable as to principal and exchangeable for fully registered bonds; interest to be payable January 1st and July 1st in New York, Cleveland or Columbus, Ohio.

The bonds are redeemable at the option of The Ohio Bell Telephone Company as a whole, but not in part, on and after July 1st, 1926, at 103½ and accrued interest.

The cost of the preparation of the extension contracts and coupon sheets and of the attaching thereof to the maturing bonds, and the cost of the necessary United States Internal Revenue stamps, was borne by The Ohio Bell Telephone Company.

On December 28th, 1921, the commission of 5% less expenses, amounting to \$132,463.64, was distributed to the Original Group.

Up to June 28th, 1922, we had purchased \$1,503,000 Bonds which we sold at various prices leaving a credit in the account of \$36,192.26, which was distributed on June 28th and the account closed.

EXHIBIT No. 1690

[From the files of the Central Hudson Gas & Electric Corp. Letter from Albert H. Gordon to John Wilkie]

KIDDER, PEABODY & CO.

17 Wall Street, New York. 115 Devonshire Street, Boston.

Branch offices

10 East 45th St., New York. 69 Newbury St., Boston
1416 Chestnut St., Philadelphia

NEW YORK, March 2, 1935.

JOHN WILKIE, Esq.,

Central Hudson Gas & Electric Corp., Poughkeepsie, New York.

DEAR JOHN: You have my best thanks for sending me ten copies of your report for I was able to make good use of them. If the President realized how well you were carrying out his pet project of rural electrification in his own territory, you might be dear to his heart. However, I have my doubts for I do not believe your progress will get him any votes.

Ben Grant, who represents us in Albany, may call upon you soon. As you know, he has distributed more of your stock than anybody in our organization. In spite of public uncertainty regarding utilities, he feels that he could sell another 2,000 shares should they become available.

Present trends indicate that we are moving into a period of lower interest rates on long term money. Sound companies, such as yours, will wish to consider whether or not to take advantage of the situation by refunding their callable bond issues at lower interest rates. *I would be glad to review the situation with you at any time should you desire to do so.* I do not think that Drexel & Company would object as evidenced by the fact that within a few days we expect to sign a contract with the Lehigh and New England Railroad to purchase \$6,500,000 of its 4% bonds at 98 to refund its General Mortgage 5s, series "A" and "B" due 1954, the last issue of which was offered

in June 1927 by Drexel & Company. Brown, Harriman, Inc., E. B. Smith & Co. and the First of Boston Corporation have accepted our invitation to join the purchase group.

It is my guess that there will be much utility refunding within the next six months. At the moment Pacific Gas & Electric Company is working actively on the refunding of its \$40,000,000 5½% bonds due 1952. The Telephone Company has been giving serious consideration to refunding its Illinois Bell Telephone and Southwest Bell Telephone issues, but has decided for the time being to do nothing because of political fears. Confidentially, George Whitney told the company that it might be possible to sell these issues on a 3⅝ basis, less 2½ points to the bankers. Whitney feels that the company should proceed on a refunding operation and is endeavoring to obtain re-assurances from Washington which will be satisfactory to the management.

Undoubtedly you could effect real economies in a refunding operation and if you ever want our ideas on the subject we should welcome the opportunity of giving them to you.

With best regards, and hoping to see you soon, I am

Sincerely,

AHG:D

AL.

EXHIBIT No. 1691

STIPULATION

It is hereby stipulated and agreed that the documents listed below are true copies of original communications or carbon copies from the files of Blyth & Co., Inc. and that they were received or sent, as the case may be, by Blyth & Co., Inc.

Date	Description	To	From
June 27, 1935	Letter.....	Walter S. Gifford, A. T. & T.....	C. E. Mitchell.
June 27, 1935	Memorandum.....	G. Leib, E. Bashore, S. Hawes.....	C. E. Mitchell.
Jan. 23, 1936	Letter.....	Harold Stanley, Morgan Stanley & Co. Inc.....	C. E. Mitchell.
Mar. 2, 1936	Letter.....	C. E. Mitchell, Blyth & Co., Inc.....	Harold Stanley.
Mar. 4, 1936	Letter.....	Charles R. Blyth.....	
June 17, 1936	Memorandum.....	C. R. Blyth, E. M. Stevens, R. Shurtleff.....	C. E. Mitchell.
Sept. 23, 1936	Memorandum.....	C. E. Mitchell.....	G. Leib.

(Signed) C. E. MITCHELL.
C. E. Mitchell.

DECEMBER 14, 1939.

"EXHIBIT No. 1692" appears in full in the text, p. 11930

EXHIBIT No. 1693

[From the files of Blyth & Co., Inc.]

JUNE 27, 1935.

DEAR WALTER: As you doubtless have read, I am back in the investment banking business, my connection being that of Chairman of the Board of Blyth & Company.

I would be inclined to chat with you about your financing but I have no doubt that you are being pestered from all quarters, and believing that whether the banking house that has handled your financing in the past is in the investment banking business or not, you will undoubtedly be guided by their views, I am not going to count myself in among the pesters. I merely remind you that I am again active and if at any time I can be of service in any way, I shall be delighted.

Very sincerely yours,

C. E. MITCHELL.

Mr. WALTER S. GIFFORD,
Pres., American Telephone & Telegraph Co.,
195 Broadway, New York City.

EXHIBIT No. 1694

Chicago
New York
BostonLEE HIGGINSON CORPORATION
231 South La Salle Street

CHICAGO, ILLINOIS, December 11, 1939.

Mr. PETER R. NEEHEMKIS, Jr.,

*Investment Banking Section, Monopoly Study,
Securities and Exchange Commission, Washington, D. C.*

DEAR SIR: At the request of Mr. W. S. Whitehead, through Mr. N. P. Hallowell in our New York office, we are enclosing a copy of a letter dated April 4, 1935, written by Mr. Hallowell to Mr. Charles H. Schweppe in Chicago.

Very truly yours,

CHARLES A. CAPEK,
*Assistant Treasurer.*CAC:NF
Enclosure.

EXHIBIT No. 1695

[From the files of Lee Higginson Corporation. Letter from N. P. Hallowell to Charles W. Schweppe, Barrett Wendell, Jr., and Charles E. Cotting]

[Copy]

NEW YORK, April 4, 1935.

Confidential

Mr. CHARLES H. SCHWEPPE,

Mr. BARRETT WENDELL, Jr.,

Chicago, Ill.

Mr. CHARLES E. COTTING,

Boston, Mass.

DEAR CHARLIE AND B: I had a very interesting luncheon yesterday with Walter Gifford of the Telephone Company. They are considering registering a \$50,000,000 issue of Southwestern Bell Telephone Co. The bonds outstanding were offered in 1924 by J.P.M. & Co., K.L. & Co., Kidder, Peabody & Co., First National Bank, Bankers Trust Co., Harris Forbes, National City Co., Guaranty Co. and L.H. & Co. These bonds are callable at 105 whereas most of the telephone issues are callable at 110.

He said they were tied up to no one and they had not discussed how to take up the matter of selling. He said that a great many houses on the street have been to him for telephone refunding and that he realized there was quite a problem ahead of them to do the thing right so as not to stir up enmity among the various houses on the street. I said "Why not use those members of the old telephone group who are still in the business as a starter, and invite in others who are the leading distributors?" He said that very possibly that might be a good way to do it. He told me that J.P.M. & Co. would not be the guiding hand as to who was to come in. I told him that if he wanted to sell us \$50,000,000 Southwestern Bell Telephone 3½s at 100 less 2½% commission we would take them. That led to the question which I was hoping he would ask of the set-up of our corporation and our capabilities for doing business and gave me the chance to tell him the amount of business we have been in during 1934. He said it has been suggested that they sell this \$50,000,000 issue to one or two insurance companies but he did not think that that was a very good idea but even if they did that they would want to register the bonds as he would have nothing to do with private sales. I told him that if he did have them registered we could sell them to insurance companies as well as anybody else but he said in case they did the Company would do it direct, but there again that probably was not the best thing for the Company to do.

He understands our position in the old telephone group and I am sure would not object, in fact, I think he would be glad, to have us in any group doing telephone financing in the future but he reiterated that they had not discussed any group and that they were beholden to no one. He told me to call him up towards the end of the month and perhaps he could tell me more. He was very friendly and I feel free to go to him at any time and I certainly will not leave it until the end of the month before seeing him again.

In spite of his saying that Morgan would not wield the guiding hand he said of course he would talk everything over with George Whitney and it might be a good idea for me to talk to George Whitney also, which I will do next week on his return. So far so good. If you can offer any suggestions which would help me in making more sure of our position, please let me know.

Sincerely yours,

NPH

NPH:R

"EXHIBIT No. 1696" appears in Hearings, Part 22, appendix, p. 11826.

EXHIBIT No. 1697

[From the files of Lee Higginson Corporation. Memorandum from E. N. Jesup to N. P. Hallowell]

NEW YORK, September 27, 1935.

Memorandum for N. P. H.

Harold Stanley called me over this noon and gave me the set-up on the Illinois Bell Telephone together with numerous documents.

The amount of the issue will be \$45,000,000, coupon 3½% and the bonds will be sold at a premium. Participations in the business will be divided as follows. These figures are dollars and not percentages.

Morgan Stanley -----	\$13,000,000
Kuhn Loeb -----	6,500,000
Kidder Peabody -----	5,000,000
Lee Higginson -----	2,500,000
First Boston -----	4,500,000
Brown Harriman -----	4,000,000
E. B. Smith -----	4,000,000

The appearance of names will be in that order. Two of the non-appearing members will be Mellon Securities with a \$2,000,000 interest and Bonbright with a \$1,000,000 interest. This totals \$42,500,000. No mention was made as to the disposition of the remaining \$2,500,000.

Harold Stanley emphasized the fact that these interests were for this piece of business only and they were not at the moment forming a telephone group. My guess is that they do not want to be committed to this group in these amounts for future telephone business owing to the possibility of some of the banks being able to underwrite in the future. If this came about I would imagine that they might have to include the First National, Guaranty and National City.

I told Harold that I thought he treated this matter with great fairness and that we were pleased.

E. N. J.

EXHIBIT No. 1698

[From the files of The First Boston Corporation]

ILLINOIS BELL TELEPHONE Co.—\$45,000,000 35-YEAR 3½% FIRST AND REFUNDING MORTGAGE BONDS

Morgan, Stanley & Co. expect to head a group which will underwrite the above issue which is now in the course of registration and which, in the normal course of events, should come out of registration in October 16th. We have received the voluminous printed documents including registration statement, prospectus, etc. and these are being studied carefully by Mr. Sholten.

Mr. Stanley invited us to join in this business on the basis of having a \$4,500,000 interest on original terms. The other member of the syndicate underwriting group in the order in which they will appear as follows:

Morgan, Stanley & Co., \$13,000,000 (handwritten:) +600,000.
 Kuhn, Loeb & Co., \$6,500,000 6,800,000
 Lee, Higginson & Co., \$2,500,000
 Brown, Harriman & Co., \$4,000,000
 Kidder Peabody & Co., \$5,000,000 (handwritten:) +300.
 First Boston Corporation, \$4,500,000
 Edward B. Smith & Co., \$1,000,000

* * * * *

The Mellon Securities will have an interest of \$2,000,000 and Bonbright will have an interest of \$1,000,000 but neither of these last two names will appear in the advertising. These amounts add up to \$42,500,000 and the remaining \$2,500,000 are to be reserved by the company.

While Lee Higginson will appear technically ahead of us in spite of the fact that they have a smaller interest, I assume that the reason for this is that the first four names are the only names that appeared as such in the former advertising of this issue. The old Harris Forbes interest in Bell Telephone financing was approximately 5% and it will be seen under the new arrangement, First Boston will have 10% of the entire issue or 10.59% of the \$42,500,000 to be sold by the underwriting syndicate.

Mr. Stanley said that these percentages did not necessarily constitute a precedent for any other Bell Telephone financing that might be done because in special cases other bankers might have to be introduced, etc.

H. M. ADDINSELL

SEPTEMBER 30TH 1935.

EXHIBIT No. 1699

[From the files of The First Boston Corporation]

SOUTHWESTERN BELL TELEPHONE COMPANY—\$45,000,000 3½% BONDS 1964

Mr. H. S. Morgan of Morgan Stanley called me up to say that it is contemplated that the above issue will go into registration tomorrow in contemplation of a public offering on December 12th. The issue is to be \$44,000,000 as \$1,000,000 is to be reserved for the pension fund.

We are offered a \$4,000,000 interest which is a slight reduction from our proportionate interest in the Illinois Bells and is occasioned by the fact that Dillon Read will be introduced into the business (in a nonappearing position) and all participants are giving up pro rata to them. The amount of their interest is not stated. Mr. Morgan is sending us the proposed registration statement and prospectus tomorrow morning and in the course of the next few days a meeting will be called of the underwriters which I will plan to attend.

H. M. ADDINSELL.

NOVEMBER 20TH 1935.

EXHIBIT No. 1700

[From the files of Smith, Barney & Co.]

Public Offerings of Securities under Securities Act of 1933 by the A. T. & T. Co. and Subsidiary Companies

Offering date Company	10/16/35 Illinois Bell Tel.	12/12/35 Southwestern Bell Tel.	4/16/36 Pac. Tel. & Tel. "B"	10/15/36 A. T. & T.	12/2/36 A. T. & T.	12/17/36 Pac. Tel. & Tel. "C"	5/5/37 Southern Bell	6/9/38 The Mountain States Tel. & Tel. Co. 30 Year 3 1/2% Debentures due 6/1/68
Issue	1st & Ref. Mtg. 3 1/2% 1970	1st & Ref. Mtg. 3 1/2% 1964	Ref. Mtg. 3 1/2% 1966	25 Yr. 3 1/2% Debts. 1961	30 Yr. 3 1/2% Debts. 1966	Ref. Mtg. 3 1/2% 1966	25 Yr. 3 1/2% Debts. 1962	
Amount	\$43,700,000 ¹	\$44,000,000 ¹	\$30,000,000	\$150,000,000 ¹	\$140,000,000 ¹	\$25,000,000	\$42,500,000 ¹	\$27,750,000
Bankers Partic. in such issues on orig. terms	Part. on Orig. Terms	Part. on Orig. Terms	Part. on Orig. Terms	Part. on Orig. Terms	Part. on Orig. Terms	Part. on Orig. Terms	Part. on Orig. Terms	Part. on Orig. Terms
	Pos. in Adv.	Pos. in Adv.	Pos. in Adv.	Pos. in Adv.	Pos. in Adv.	Pos. in Adv.	Pos. in Adv.	Pos. in Adv.
Morgan Stanley	31.1	30.45	1	16.67	14.39	30.0	17.65	18.02
Kuhn Leeb	15.6	15.23	2	8.33	7.14	2	8.82	9.00
Kiddler Peabody	12.1	11.59	3	6.67	5.71	3	7.06	7.20
Lee Higginson	5.7	5.23	4	4.00	3.43	4	3.53	3.60
First Boston	10.3	9.77	5	6.00	5.14	5	5.88	6.30
Brown Harriman	9.15%	8.64	6	6.00	5.14	6	5.88	6.30
Edward B. Smith	9.15%	8.64	7	6.00	5.14	7	5.88	6.30
Mellon Securities	4.6	4.09		3.33	2.86		2.35	2.72
Bonbright	2.3	2.27		3.33	2.86		2.35	2.72
Dillon Read	NA	4.09		3.33	2.86		2.35	2.72
Blyth & Co.	NA	NA		3.33	2.86		2.35	2.72
Lazard Freres	NA	NA		2.67	2.28		2.35	2.72
Clark Dodge	NA	NA		1.33	1.14		1.18	1.44
Domink & Dominick	NA	NA		1.33	1.14		1.18	1.44
Goldman Sachs	NA	NA		1.33	1.14		1.18	1.44
Harris Hall	NA	NA		1.6	1.41		1.41	1.44
Hayden Stone	NA	NA		1.33	1.14		1.18	1.44
W. E. Hutton	NA	NA		1.33	1.14		1.18	1.44
Lehman	NA	NA		1.33	1.14		1.18	1.44
Moseley	NA	NA		1.33	1.14		1.18	1.44
Seligman	NA	NA		1.33	1.14		1.18	1.44
White Weld	NA	NA		1.0	0.9		0.94	1.26
Dean Witter	NA	NA		1.0	0.9		0.94	1.26
Other Underwriters	NA	NA		4 16.7	23.57		24.11	7 18.74
Total	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00

¹ Excludes any amounts sold to Trustee of Company's Pension Fund.² Smith, Barney & Co.³ Did not appear in advertising.⁴ 24 other houses underwrote 16.7% or \$25,000,000 of this issue.⁵ 74 other houses underwrote 28.57% or \$40,000,000 of this issue.⁶ 27 other houses underwrote 24.11% or \$10,250,000 of this issue.⁷ 16 other underwriters underwrote 18.74% or \$5,200,000 of this issue.

NA—No interest on original terms or appearance in advertising.

HHS/EF 5/27/37

H. H. SHERRBURNE.

EXHIBIT No. 1701

[From the files of The First Boston Corporation]

(Handwritten:) Memo. Issue.

SOUTHERN BELL TELEPHONE COMPANY—\$45,000,000 3¼% 25-YEAR DEBENTURES

Mr. Stanley of Morgan Stanley telephoned this morning to offer us a \$2,500,000 interest in the above business which has gone into registration and is expected to come to the market about May 5th. Of the \$45,000,000 to be issued \$2,500,000 will be taken by the pension fund of the company, leaving \$42,500,000 for purchase by the bankers. The interest offered us therefore amounts to 5.8+%. This is a little smaller than the interests we have had in any of the recent telephone issues excepting the A. T. & T. 3¾s due 1966 where we had a 4.5% interest. Mr. Stanley explained that pursuant to the company's desire they had increased the number of underwriters which resulted in pro rata reduction of the percentage interests of the old principal underwriters including themselves. He mentioned that their interest would be \$7,500,000.

This is of course a prime credit. When I commented that 3¼% debentures seemed perhaps a little ambitious, especially when the Pacific Telephone 3¼% Mortgage Bonds which is a better security were currently quoted 99⅞-99¾, he replied that the company had no objection to having the bonds sold to the public at a discount and that it was a question of market conditions at the time; that the debenture issue was decided upon instead of a mortgage as it may be that the company will be obliged to segregate its property by states, in which case the release provisions could be more advantageously worked out with a debenture and they thought they had worked out release provisions which would be satisfactory from the point of view of the intrinsic security.

I accepted, with thanks subject to the usual.

H. M. ADDINSELL.

April 14th, 1937.

EXHIBIT No. 1702

[From the files of The First Boston Corporation]

(Handwritten): Memo. June 26, 1939. Issue.

SOUTHERN BELL TELEPHONE¹ Co.—\$22,250,000 40-YEAR 3% DEBENTURES

Perry Hall of Morgan Stanley advised me today that the Company expects to file the above issue for registration with the S. E. C. on Thursday, the 29th. The proceeds are to be used primarily to retire advances from the parent company. We are offered a \$1,220,000 interest. The same people will participate as did in the mortgage bonds and our interest is proportionate to that in the mortgage bonds.

The gross spread will be 1½ points, of which ½ will be allowed to dealers, underwriters will have ¾ gross (subject to expenses), and Morgan Stanley will have ¼ management. Offering is expected July 20th.

I have accepted subject to the usual.

H. M. ADDINSELL.

June 26th, 1939.

¹(Handwritten:) & Tel. Co.

EXHIBIT No. 1703

Relative Participations in Security Issues of American Telephone and Telegraph and Associated Companies, 1935-1939—Participations of the Principal Underwriters in Relation to the Participation of Morgan Stanley & Co., Incorporated

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Date of Offering Prospectus	Issue	Amount	Morgan Stanley & Co., Inc.	Kuhn, Loeb & Co.	Kidder, Peabody & Co.	Lee, Higginson Corp.	The First Boston Corporation	Brown, Hartman & Co., Inc.	Smith, Barney & Co. (E. B. Smith & Co.)	Hlyth & Co. Inc.	Dean, Witter & Co.	Dillon, Read & Co. Inc.	Mellon Securities Corporation	Bonbright & Co.	Lazard Freres & Co.	Harris, Hall & Co.	Clark, Dodge & Co.	Goldman, Sachs & Co.	F. S. Moseley & Co.	Hayden Stone & Co.	White, Weld & Co.	Lehman Brothers	Schoellkopf, Hutton & Pomeroy, Inc.	Stone & Webster and Budgett, Inc.	J. & W. Seligman & Co.	C. D. Barney & Co.	Salomon Bros. & Hutzler
10/16/35	Illinois Bell Telephone Co., 3 $\frac{3}{4}$ s of 1970.	\$43,700,000	100.0	50.0	39.0	18.4	33.1	29.4	29.4				14.7	7.4													
12/12/35	Southwestern Bell Tel. Co., 3 $\frac{3}{4}$ s of 1964.	44,000,000	100.0	50.0	38.0	17.2	32.1	28.3	28.3			13.4	13.4	7.5													
4/16/36	Pacific Tel. & Tel. Co. 3 $\frac{3}{4}$ s of 1966.	30,000,000	100.0	50.0	33.3	16.7	25.6	25.6	25.6		25.6						5.6										
10/15/36	American Tel. & Tel. Co. 3 $\frac{3}{4}$ s of 1961.	150,000,000	100.0	50.0	40.0	24.3	36.0	36.0	33.0	20.0	6.0	20.0	20.0	16.0	16.0	16.0	8.0	8.0	8.0	8.0	8.0	8.0	4.0	4.0	8.0	4.0	4.0
12/ 3/36	American Tel. & Tel. Co. 3 $\frac{3}{4}$ s of 1966.	140,000,000	100.0	50.0	40.0	24.0	36.0	36.0	36.0	20.0	6.0	20.0	20.0	16.0	16.0	16.0	8.0	8.0	8.0	8.0	8.0	8.0	3.7	3.7	8.0	3.7	3.7
12/17/36	Pacific Tel. & Tel. Co. 3 $\frac{3}{4}$ s of 1966.	25,000,000	100.0	50.0	33.3	16.7	25.4	25.4	25.4	25.4	25.4						6.7										
5/ 5/37	Southern Bell Tel. & Tel. Co. 3 $\frac{3}{4}$ s of 1962.	42,500,000	100.0	50.0	40.0	20.0	33.3	33.3	33.3	13.3	5.3		13.3	13.3	13.3	8.0	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7
6/24/37	New York Telephone Co. 3 $\frac{3}{4}$ s of 1967.	25,000,000	100.0	50.0	40.0	20.0	32.5	32.5	32.5							5.0											
6/ 9/38	Mountain States Tel. & Tel. Co. 3 $\frac{3}{4}$ s of 1968.	27,750,000	100.0	50.0	40.0	20.0	35.0	35.0	35.0	15.0	7.0		15.0	15.0	12.0	8.0	8.0	8.0	8.0	8.0	8.0	8.0	8.0	8.0	8.0	8.0	8.0
7/14/38	Southwestern Bell Tel. Co. 3s of 1968.	28,900,000	100.0	50.0	40.0	20.2	34.6	34.6	34.6	13.5	5.8		13.5	13.5	11.5	7.7	7.7	7.7	7.7	7.7	7.7	7.7	7.7	7.7	7.7	7.7	7.7
7/20/39	Southern Bell Tel. & Tel. Co. 3s of 1979.	22,250,000	100.0	50.0	40.0	20.0	33.3	33.3	33.3	13.4	5.3		13.4	13.4	13.4	8.1	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7

Source: Compiled from the registration statements relating to the respective issues on file with the Securities and Exchange Commission.

EXHIBIT No. 1704

Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Financing of American Telephone and Telegraph Company and Associated Companies by Morgan Stanley & Co. Incorporated from Sept. 16, 1935 to June 30, 1939

[Amounts in Thousands of Dollars]

[illegible]

Financing of American Telephone and Telegraph Company and Associated Companies by Morgan Stanley & Co. Incorporated from Sept. 16, 1935 to June 30, 1939—Continued

[Amounts in Thousands of Dollars]

Issues	Illinois Bell T Co. 3½'s of 1970		Southwestern Bell T Co. 3½'s of 1964		Pacific T & T Co. 3½'s of 1966		American T & T Co. 3½'s of 1961		American T & T Co. 3½'s of 1966		Pacific T & T Co. 3½'s of 1966		Southern Bell T & T Co. 3½'s of 1962		New York Tel. Co. 3½'s of 1967		Mountain States T & T Co. 3½'s of 1968		Southwestern Bell T Co. 3's of 1968	
	Amount Allocated	Percent Allocated	Amount Allocated	Percent Allocated	Amount Allocated	Percent Allocated	Amount Allocated	Percent Allocated	Amount Allocated	Percent Allocated	Amount Allocated	Percent Allocated	Amount Allocated	Percent Allocated	Amount Allocated	Percent Allocated	Amount Allocated	Percent Allocated	Amount Allocated	Percent Allocated
Date of Offering Prospectus	10/16/35		12/12/35		4/16/36		10/15/36		12/2/36		12/17/36		5/5/37		6/24/37		6/9/38		7/14/38	
Underwriters	Order in Which Name of Firm Appeared in Ten Issues																			
Blair, Bonner & Co.	79								300	0.2							200	0.7		
Burr, Gannett & Co.	80	35							300	0.2										
Robert Garrett & Sons	81								300	0.2										
J. J. B. Hilbard & Son	82	29							300	0.2			300	0.7						
The Illinois Co. of Chicago	83								300	0.2										
MacRuhin, Legg & Co.	84								300	0.2										
Merill, Turben & Co.	85								300	0.2										
Moore, Leonard & Lynch	86								300	0.2										
Newton, Abbe & Co.	87								300	0.2										
Lawrence Stern & Co. Inc.	88								300	0.2										
Callaway, Fish & Co.	89								250	0.2										
Elkins, Morris & Co.	90								250	0.2										
Equitable Securities Corp.	91	21							250	0.2			300	0.7						
Mitchell, Tully & Co.	92								250	0.2										
Nichols, Terry & Dickenson, Inc.	93								250	0.2										
Smith, Moore & Co.	94	37							250	0.2									250	0.9
Stein Bros. & Boyce	95								250	0.2										
Stroud & Co. Inc.	96								250	0.2										
Dillon, Read & Co.	97								4,000	2.9										
Almstedt Bros.	10	47	8	4.1			5,000	3.3												
Courts & Co.	18												200	0.5						
Glore, Forgan & Co.	23	33	35										500	1.2			250	0.9	250	0.9

[illegible]

NOTE.—Discrepancies in the total percentage are due to the process of "rounding off."

EXHIBIT No. 1705

[From the files of Blyth & Co., Inc.]

Memorandum to Mr. C. E. Mitchell

SEPTEMBER 23, 1936.

Copy to C. R. Blyth

E. M. Stevens

Roy Shurtleff

J. L. Pagen

Harold Stanley called up while you were out, on the subject of American Telephone & Telegraph. There will be \$175,000,000, 25 year 3½s filed either today or tomorrow, to be offered about October 15th. \$25,000,000 of this will be retained by the Company for the pension fund.

It will be two point profit business with ⅔ going to Morgan Stanley. Underwriters will receive ⅓, subject to expenses and the selling group will receive ¼. Price to the public will probably be around 101, which Stanley said he has discussed generally with you. If there is any change above that price it will be taken up again with the underwriters.

There will probably be about 45 underwriters. The only people who will appear are the following, with their amounts:

Morgan Stanley-----	\$25, 000, 000
Kuhn Loeb-----	12, 500, 000
Kidder Peabody-----	10, 000, 000
Brown Harriman-----	9, 000, 000
E. B. Smith-----	9, 000, 000
First Boston-----	9, 000, 000
Lee Higginson-----	6, 000, 000

The most substantial amounts in the non-appearing group will be:—

Dillon Reed-----	\$5, 000, 000
Blyth-----	5, 000, 000
Mellon Securities-----	5, 000, 000
Lazard Freres-----	4, 000, 000

Mr. Stanley went on to explain that there is absolutely no precedent in this business as the next issue will be a small one and it may be that they will go back to the original seven underwriters who appear publicly.

GL. R.

G. LEIB.

EXHIBIT No. 1706

[From the files of Blyth & Co., Inc. Letter from C. E. Mitchell to Charles R. Blyth]

MARCH 4, 1936.

DEAR CHARLEY: I have had several talks with Harold Stanley regarding Pacific Telephone business and have used every argument that I can muster that we should be up around the top in that offering. He started out with the proposition that it was going to be impossible to revise the old account. Later he conceded us a position of \$1,000,000. in the underwriting and the last appearing name. Then he told me that there was just as much pressure from the Coast for the care of Dean Witter as there was for us and if he revamped the account to take us in, he would have to find some place for Dean Witter, and now in a letter written just as he was leaving for a holiday, he writes me as to the set-up as follows:

"As to Pacific Telephone, we have tried to consider all the different aspects of that issue. It is not coming for some time, but I think that the participants will be invited on the following basis:

Morgan Stanley & Co-----	\$9, 000, 000
Kuhn, Loeb & Co-----	4, 500, 000
Kidder Peabody & Co-----	3, 000, 000
Lee Higginson & Co-----	1, 500, 000
First of Boston-----	2, 300, 000
E. B. Smith & Co-----	2, 300, 000
Brown Harriman & Co-----	2, 300, 000
Blyth & Co-----	2, 300, 000
Dean Witter & Co-----	2, 300, 000
Harris Hall & Co-----	500, 000

"The names to appear in the advertisement in the order given.

"I know you will keep the above confidential, as we haven't spoken to any of the other houses, and the above program may be changed

"After giving not only your wishes but the entire matter a lot of thought I am convinced that the above arrangement is fair all around and in the best interest of the business.

"I note what you say about your having offered us the participation in Pacific Gas & Electric, which of course we appreciated and which we were very glad to accept, but really there can be no connection between that and the Pacific Telephone business in your mind or ours."

I have about used up my oratory. Have you got any suggestions?

Sincerely,

Mr. CHARLES R. BLYTH,
San Francisco Office.

EXHIBIT No. 1707

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Financing of American Telephone and Telegraph Company and associated companies headed by Morgan Stanley & Co. Incorporated

Date of Offering Prospectus	Title of Issue	Total Amount of Issue Underwritten	Amount of Morgan Stanley & Co.'s Underwriting Participation	Bankers' Gross Commissions	Morgan Stanley & Co.'s Manager's Compensation	Morgan Stanley & Co.'s Gross Profit Before Syndicate Expenses	Morgan Stanley & Co.'s Gross Profit After Syndicate Expenses ¹
10/16/35	Illinois Bell Telephone Co. 3½% due 1970	\$43,700,000	\$13,600,000	\$874,000	\$109,250	\$211,345	\$211,345
12/12/35	Southwestern Bell Telephone Co. 3½% due 1964	44,000,000	13,400,000	880,000	110,000	210,600	210,500
4/16/36	Pacific Telephone and Telegraph Co. 3½% due 1966	30,000,000	9,000,000	600,000	75,000	142,500	142,500
10/15/36	American Telephone and Telegraph Co. 3½% due 1961	150,000,000	25,000,000	3,000,000	562,500	781,250	758,200
12/2/36	American Telephone and Telegraph Co. 3½% due 1966	140,000,000	20,000,000	2,800,000	525,000	700,000	682,848
12/17/36	Pacific Telephone and Telegraph Co. 3½% due 1966	25,000,000	7,500,000	500,000	93,750	159,375	142,514
5/5/37	Southern Bell Telephone and Telegraph Co. 3½% due 1962	42,500,000	7,500,000	850,000	159,375	225,000	209,640
6/24/37	New York Telephone Co. 3½% due 1967	25,000,000	8,000,000	500,000	93,750	163,750	142,457
6/9/38	Mountain States Telephone and Telegraph Co. 3½% due 1968	27,750,000	5,000,000	555,000	104,062	147,812	136,007
7/14/38	Southwestern Bell Telephone Co. 3% due 1968	28,500,000	5,200,000	578,000	108,375	153,875	141,707
7/20/39	Southern Bell Telephone and Telegraph Co. 3% due 1979	22,250,000	3,960,000	333,750	55,625	85,325	75,898
	Totals.....	\$579,100,000	\$118,160,000	\$11,470,750	\$1,996,687	\$2,980,732	\$2,853,616

¹ Before expenses, taxes, overhead and return on capital.

Source: From data supplied by Morgan Stanley & Co. Incorporated.

EXHIBIT No. 1708

[From the files of the American Telephone and Telegraph Company]

(Handwritten): P. F. File. 6/3/08. AAM.

44, STATE STREET,

BOSTON.

February 15, 1905.

FREDERICK P. FISH, Esq.,

*President, American Telephone & Telegraph Co.,**125, Milk Street, Boston, Mass.*

DEAR SIR: As we think we have made it apparent to your Company ever since our firm and Messrs. Speyer & Co. provided for the last capital requirements, we are anxious to be afforded an opportunity to show on what terms we can provide the fresh capital desired by the Company for the coming year. We do not ask or suggest that we should be given the slightest preference over any other banking firms. The Company is in sound financial condition, and we submit that there is no reason, based on the condition of the Company in the present market situation, why the company should not provide for its wants on the best terms available, and we think it a fair statement to say that the Company cannot determine what these are if it permits a single firm only to lay before it a plan to provide for its financial requirements.

The New England market has been of inestimable benefit to the Company in steadily absorbing the larger portion of its securities. In the main, the New England investor is not a speculator or purchaser of securities on a scale which leads to substantial liquidation in times of stock market stress, and if the confidence of the New England investor is retained by a continuation of conservative methods of finance and management it should not be overlooked that in absorbing and holding power he will continue for many years to be the most valuable client which the Company possesses.

At the same time we think all well wishers of the Company realize that if it can also interest a substantial number of investors in its securities in New York in England in Holland and Germany, its position will be greatly strengthened, and we and our friends, Messrs. Speyer & Co. have given this matter much consideration. Holland, for example, seems to us to be a place where a very valuable and tenacious clientele can be built up for the Company, but we are inclined to think that in view of the lack of knowledge in Holland of the Company and its resources, it is not very probable that the Dutch will be disposed to purchase the present outstanding securities of the Company on a substantial scale. The bonds, at present prices, now yield only slightly above 4%, and the danger is that the Dutch investor may be more attracted by the bonds of other large corporations better known to him, and yielding the same rate of interest, such, for example, as last week's sale of \$75,000,000 Southern Pacific 4s (sold at 97) a large number of which we have reason to know were sold in Holland.

It is also true that foreign investors might not be strongly attracted by the stock at the present time; for there are securities of other companies better known to them, which are likely to have the preference in their minds.

It seems to us, however, that a convertible bond, as we have taken occasion to say several times during the last year could be made to attract foreign investors, and so gradually interest them in the Company. Such a bond could be made convertible say on the basis of par for the bonds and 150 for the stock. We are aware that under the New York Statutes bonds issued under the present mortgage could only be made convertible for the next six years, but if it seemed desirable to extend this period, we have consulted counsel and believe we could suggest a method by which the two to twelve year period provided for by the statute could be secured.

We have also given a great deal of time and thought to the question of how a preference stock would be received in the several foreign markets. We are certain that a five per cent. preference stock would meet with favor, and could be sold readily in all markets at par. This stock could be made callable at 110 if the Company desired, so that as time goes on, and the Company gets to a four per cent. basis for its preferred stock this five per cent. stock could be called in and quite a saving made for the common stock.

We also think a 4½% preference stock made exchangeable into common stock on the basis of 150 for the common stock could be sold at a price which would

be very satisfactory indeed to the Company. Under the conditions obtaining in foreign markets at the present moment this latter plan, in our judgment, is probably the wisest course for the Company to pursue. The stock could be listed on the principal European markets, and we think it would prove decidedly attractive. Its convertible feature will cause every one to keep their eye on the common stock, and brokers and their clients will begin to acquaint themselves with the strength and standing of the Telephone Company. If the stock ever should be converted into common on the basis of 150, this new capital would only have cost five per cent., and will not be represented by an interest bearing obligation, but will share fully whatever risks there may be in the telephone business, and in addition it will have purchased for the Company a standing in all the foreign markets, and, moreover, by such an exchange the way will very likely be cleared for the issue of more preferred stock for future capital requirements, and perhaps on a basis still better for the Company. Meanwhile the money thus obtained from the sale of the 4½% preference stock, upon which the Company should earn probably seven or eight per cent., will cause an increasing surplus for the common stock, and ought to enhance its value. It is also true that this increase of capital, without any increase in the interest bearing obligations of the Company, will be a great assurance for the future of the Company, for its indebtedness will be far below that of any other correspondingly large corporation in the country. If there should happen to be a shake up in the market in connection with the next presidential election when there will be the uncertainty of a new Republican candidate and the democratic party very likely led by its radical elements, the position of the Company will be absolutely impregnable.

In this connection, we may add that we should be glad to provide not only for the requirements for the year 1905, but to go further if desired, and take care of the \$20,000,000 five per cent. Notes coming due May 1907.

May we say for ourselves, that as a New England firm, we have always taken a great pride in the Company. We have dealt extensively in its securities for many years; we have, with our friends, Messrs. Speyer & Co., provided for its last financial requirements, and inasmuch as there has been no day since the issue of the last securities when we have not made it clear that we were ready and anxious to be considered by the Company when taking up its future capital requirements, we should feel it keenly if we should be kept in our present position of being told that an offer of capital from us could not be considered, and the opportunity should be reserved exclusively for another.

We think we can rightly say that the record of this last year and preceding years shows that Messrs. Speyer & Co. and ourselves are as well fitted as any firm to serve the Company by purchasing and thoroughly distributing a large block of new securities.

Very truly yours,

(Signed) LEE HIGGINSON Co.

[Source: President's file 17614.]

EXHIBIT No. 1709-1

[Letter from The First National Bank of the City of New York to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

HENRY S. STURGIS, *Vice President*

THE FIRST NATIONAL BANK
OF THE CITY OF NEW YORK

NEW YORK, December 6, 1939.

Mr. PETER R. NEHEMKIS, Jr.,

Special Counsel, Investment Banking Section,

Securities and Exchange Commission, Washington, D. C.

DEAR MR. NEHEMKIS: As requested in your letter of December 2, we enclose herewith a table showing the percentage participations by issues on original terms of the First National Bank or the First Security Company in all American Telephone & Telegraph Company or associated company financing, commencing with the year 1906.

Yours very truly,

HENRY S. STURGIS, *Vice President.*

Encl.

EXHIBIT No. 1709-2

[Letter from The First National Bank of the City of New York to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

HENRY S. STURGIS, *Vice President*

THE FIRST NATIONAL BANK
OF THE CITY OF NEW YORK

NEW YORK, December 7, 1939.

Mr. PETER R. NEHEMKIS, Jr.,

Special Counsel, Investment Banking Section,

Securities and Exchange Commission, Washington, D. C.

DEAR MR. NEHEMKIS: In the table sent you yesterday showing percentage participations by issues on original terms of the First National Bank or the First Security Company in American Telephone & Telegraph Company or associated company financing, we did not include an issue of Western Electric Company debentures.

If you wish to add this issue to the table, the comparable information is as follows:

1924 Mar. 26 \$35,000,000 Western Electric Co. Inc. Deb 5s, 1944, 10%.

Yours very truly,

HENRY S. STURGIS, *Vice President.*

EXHIBIT No. 1709-3

[Table accompanying "Exhibit No. 1709-1" as corrected by "Exhibit No. 1709-2"]

DECEMBER 6, 1939.

				Percentage Participation
1906	Feb	15	\$100,000,000 Amer Tel & Tel, Conv 4s 1936.....	6¼%
1908	Nov	28	50,000,000 Amer Tel & Tel, Conv 4s 1936.....	5
1909	Mar	23	10,000,000 Pacific Tel & Tel, 1st Coll 5s 1939.....	16¾
	Oct	5	25,000,000 New York Tel, 1st Gen 4½s 1939.....	2
1910	Mar	14	10,000,000 New York Tel, 1st Gen 4½s 1939.....	5
	Mar	23	10,000,000 Pacific Tel & Tel, 1st & Coll 5s.....	6
1913	Jan	8	67,000,000 Amer Tel & Tel, Conv 4½s 1933 (Underwriting of subscription by stockholders).....	10
1914	Feb	13	5,000,000 Southern Bell Tel & Tel, 1st 5s 1941.....	9
	Apr	1	30,000,000 Amer Tel & Tel Subsid Cos, 5s 1916.....	11¼
1916	Jan	6	50,000,000 Amer Tel & Tel Subsid Cos, 4½s 1918.....	11¼
	Nov	24	80,000,000 Amer Tel & Tel, 5s 1946.....	10. 125
1918	Jan	3	40,000,000 Amer Tel & Tel Subsid Cos, 6s 1919.....	10. 125
	Jun	19	50,000,000 Amer Tel & Tel, Conv 6s 1925.....	4. 32
1919	Jan	6	40,000,000 Amer Tel & Tel, 6s 1924.....	10½
	Jan	6	25,000,000 New York Tel, 6s 1949.....	10½
	Sept	25	50,000,000 Amer Tel & Tel, 6s 1922.....	10. 125
1920	Apr	10	25,000,000 Southwestern Bell Tel of Mo, Conv. 7s 1925.....	2
	Sept	29	25,000,000 Bell Tel of Pa, 1st Ref 7s 1945.....	10
1921	Jan	8	30,000,000 Northwestern Bell Tel, 1st 7s 1941.....	10
	Feb	1	11,642,000 Southwestern Bell Tel, Conv 7s 1926.....	2. 15
	Nov	12	50,000,000 New York Tel, Ref 6s 1941.....	10
1922	May	2	25,000,000 Pacific Tel & Tel, 1st Ref 5s 1952.....	10
	May	24	35,000,000 New England Tel & Tel, 1st 5s 1952.....	10
1923	Jan	10	35,000,000 Bell Tel of Pa, 1st Ref 5s 1948.....	10
	Jun	14	50,000,000 Illinois Bell Tel, 1st & Ref 5s 1956.....	10
	Nov	2	100,000,000 Amer Tel & Tel, 5½s 1943.....	10
1924	Jan	25	50,000,000 Southwestern Bell Tel, 1st Ref 5s 1954.....	10
	Mar	26	35,000,000 Western Electric Co, Inc, Deb 5s 1944.....	10
1925	Jan	7	125,000,000 Amer Tel & Tel, 5s 1960.....	10
	Sept	17	50,000,000 Bell Tel of Pa, 1st Ref 5s 1960.....	10
1926	May	12	40,000,000 New England Tel & Tel, 1st 4½s 1961.....	10
1929	Oct	17	32,000,000 Southern Bell Tel, 1st 5s 1941.....	10
1930	Jan	11	150,000,000 Amer Tel & Tel, 5s 1965.....	10

EXHIBIT No. 1710-1

[Letter from Kuhn, Loeb & Co. to Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

KUHN, LOEB & Co.,

William and Pine Streets, New York, December 6, 1939.

PETER R. NEHEMKIS, Jr., Esq.,

*Special Counsel, Investment Banking Section, Monopoly Study,
Securities and Exchange Commission, Washington, D. C.*

DEAR SIR: Replying to your letter of December 2nd, 1939, we enclose a schedule, which has been compiled from our records, showing the percentage participation, on original terms, of our firm in issues of securities by the American Telephone and Telegraph Company or associated companies, from the year 1906 to date. We have indicated by note the issues in which we ceded parts of our participations to others on original terms, showing the percentages ceded in each case.

In the accompanying schedule we have omitted reference to the purchase by us from American Telephone & Telegraph Company in 1914 of 296,572 shares of Western Union Telegraph Company stock, which were subsequently offered for subscription to stockholders of Western Union Telegraph Company, inasmuch as this transaction was not an issue of securities by American Telephone & Telegraph Company.

Very truly yours,

KUHN, LOEB & Co.

ao-hz.

enclosure.

EXHIBIT No. 1710-2

[Table accompanying "Exhibit No. 1710-1"]

Date	Title of Issue	Amount of Issue	K. L. & Co.'s Participation on original terms (Percentage)	
<i>1906</i> Feb. 13	American Telephone & Telegraph Co. 4% Conv. Gold Bonds 3/1/36-----	\$150,000,000	22½%	Underwriters originally contracted to purchase \$100,000,000 of Bonds and had option to purchase additional \$50,000,000. Bonds were offered from time to time between April 16, 1906 and Jan. 8, 1908. Option to purchase additional \$50,000,000 was exercised November 27, 1908.
<i>1907</i> Jan. 8	American Telephone & Telegraph Co. 3-Yr. 5% Notes due 1/1/10-----	\$25,000,000	22½%	
<i>1909</i> Sept. 29	New York Telephone Co. I & Gen'l. Mtge. 4½% S. F. 30-Yr. Gold Bonds due 11/1/39.	\$25,000,000	5%	Original purchasers, Kidder Peabody & Co. and Baring Bros. & Co. Ltd., London-K. L. & Co. were coded participation on original terms. Of its 3% participation K. L. & Co. ceded 16% to Frank A. Vanderlip and 28% to George J. Gould on original terms.
<i>1910</i> Mar. 12	New York Telephone Co. I & Gen'l. Mtge. 4½% S. F. 30-Yr. Gold Bonds due 11/1/39.	{ £3,000,000 \$10,000,000 }	5%	Original purchasers as above. K. L. & Co. were ceded 5% on original terms.
<i>1912</i> May 27	New York Telephone Co. I & Gen'l. Mtge. 4½% S. F. 30-Yr. Gold Bonds due 11/1/39.	{ £2,000,000 \$10,000,000 }	5%	Original purchasers, Kidder Peabody & Co., Baring Bros. & Co. Ltd., London and Hope & Co., Amsterdam-K. L. & Co. were ceded 5% on original terms.
Sept. 24	New York Telephone Co. I & Gen'l. Mtge. 4½% S. F. 30-Yr. Gold Bonds due 11/1/39.	\$5,000,000	10%	Kidder Peabody & Co. sole original purchaser-K. L. & Co. were ceded 10% on original terms.
Oct. 14	New England Telephone & Telegraph Co. 5% Gold Bonds due 11/1/32-----	\$10,030,000	10%	Do.
<i>1913</i> Jan. 8	American Telephone & Telegraph Co. 20-Yr. Conv. 4½% Bonds, 3/1/33----	\$66,997,540	15%	Underwriting of offering to stockholders.
<i>1914</i> Feb. 11	Southern Bell Tel. & Tel. Co. I Mtge. S. F. 5% Gold Bonds due 1/1/41-----	\$5,000,000	13½%	
Mar. 31	American Telephone & Telegraph Co. 2-Yr. 5% Notes of Associated Companies, 4/15/16. ditto Southwestern 20-Yr. 5% Bonds-----	\$30,000,000 \$20,000,000	15%	
<i>1916</i> Jan. 6	American Telephone & Telegraph Co. 2-Yr. 4½% Notes 2/1/18-----	\$50,000,000	14½%	
Nov. 24	ditto 30-Yr. 5% Coll. Trust 12/1/46-----	\$80,000,000	13½%	

					Underwriting of offering to stockholders
1918					
Jan. 3	ditto	1-Yr. 6% Gold Notes (Associated Companies) 2/1/19	\$40,000,000	13 $\frac{1}{2}$ %	
June 19	ditto	7-Yr. 6% Conv. Bds. 8/1/25	\$50,000,000	13 $\frac{1}{2}$ %	
1919					
Jan. 6	ditto	5-Yr. 6% Notes 2/1/24	\$25,000,000	13 $\frac{1}{2}$ %	
Sept. 25	New York Telephone Co.	30-Yr. 6% Debentures 2/1/49	40,000,000	13 $\frac{1}{2}$ %	
	American Telephone & Telegraph Co.	3-Yr. 6% Notes 10/1/22	\$50,000,000	13 $\frac{1}{2}$ %	
1920					
Sept. 29	Bell Telephone Co. of Pennsylvania	25-Yr. I & Ref. 7 $\frac{1}{2}$ % S. F. Bonds Series A, 10/1/45	\$25,000,000	10 $\frac{3}{4}$ %	
1921					
Jan. 8	Northwestern Bell Telephone Co.	I Mtge. 20-Yr. 7% Bds. A 2/1/41	\$30,000,000	10 $\frac{3}{4}$ %	
1923					
May 2	Pacific Tel. & Tel. Ref. Mtge.	30-Yr. 5% Bds. A 5/1/52	\$25,000,000	10 $\frac{3}{4}$ %	
May 24	New England Tel. & Tel. I Mtge.	30-Yr. 5% Bds. A 6/1/52	\$5,000,000	10 $\frac{3}{4}$ %	
1925					
Jan. 10	Bell Telephone Co. of Pennsylvania	25-Yr. I Ref. Mtge. 5% Bonds B 1/1/48	\$25,000,000	10 $\frac{3}{4}$ %	
June 14	Illinois Bell Telephone Co.	I Ref. Mtge. 5% Bonds A due 6/1/56	\$0,000,000	10 $\frac{3}{4}$ %	
Nov. 2	American Telephone & Telegraph	20-Yr. S. F. 5 $\frac{1}{2}$ % Gold Bonds 11/1/43	100,000,000	10 $\frac{3}{4}$ %	
1927					
Jan. 25	Southwestern Bell Telephone Co.	I Ref. Mtge. 30-Yr. 5% Bds A 2/1/54	\$50,000,000	10 $\frac{3}{4}$ %	
1925					
Jan. 7	American Tel. & Tel. 35-Yr. S. F. 5% Gold Debs. 1/1/60		\$125,000,000	10 $\frac{3}{4}$ %	
Sept. 17	Bell Telephone Co. of Pennsylvania	I Ref. Mtge. 5% Bds. Series C 10/1/60	\$5,000,000	10 $\frac{3}{4}$ %	
1926					
May 12	New England Tel. & Tel. I Mtge.	4 $\frac{1}{2}$ % Bds. B 5/1/61	\$40,000,000	10 $\frac{3}{4}$ %	
1929					
Oct. 18	Southern Bell Tel. & Tel. I Mtge.	5% Bds. 1/1/41	\$32,000,000	10 $\frac{3}{4}$ %	
1930					
Jan. 11	American Tel. & Tel. Co.	35-Yr. 5% Gold Bonds, 2/1/65	\$150,000,000	10 $\frac{3}{4}$ %	
1935					
Oct. 16	Illinois Bell Telephone	3 $\frac{1}{2}$ % I Ref. Mtge. Bds. B, 10/1/70	\$43,700,000	15.56%	\$45,000,000 issued but only \$43,700,000 publicly offered.
Dec. 12	Southwestern Bell Telephone	3 $\frac{1}{2}$ % I & Ref. Mtge. Bds. B, 12/1/64	\$44,000,000	13.22%	\$45,000,000 issued but only \$44,000,000 publicly offered.
1936					
Apr. 12	Pacific Tel. & Tel. 3 $\frac{1}{4}$ % I Ref. Mtge. Bds. B, 4/1/60		\$30,000,000	15%	\$175,000,000 issued but only \$150,000,000 publicly offered.
Oct. 15	American Tel. & Tel. 3 $\frac{1}{4}$ % Debentures, 10/1/61		\$150,000,000	8.33%	\$160,000,000 issued but only \$140,000,000 publicly offered.
Dec. 2	ditto	3 $\frac{1}{2}$ % Debentures, 12/1/66	\$140,000,000	7.14%	
Dec. 17	Pacific Tel. & Tel. 3 $\frac{1}{4}$ % Ref. Mtge. Bds. C, 12/1/62		\$25,000,000	15%	

Date	Title of Issue	Amount of Issue	K. L. & Co.'s Participation on original terms (Percentage)	
<i>1937</i>				
May 5	Southern Bell Tel. & Tel. Co. 25-Yr. 3¼% Debs. 4/1/62-----	\$42,500,000	8.83%	\$45,000,000 issued but only \$42,500,000 publicly offered.
June 9	Mountain States Tel. & Tel. 3¼% Debs. 6/1/63-----	\$27,750,000	9%	\$30,000,000 issued but only \$27,750,000 publicly offered.
June 17	New York Telephone Co. Ref. Mtge. 3¼% Bds. B. 7/1/67-----	\$25,000,000	15%	
<i>1938</i>				
July 14	Southwestern Bell Tel. & Tel. 1 Mtge. Ref. 3% Bds. C. 7/1/68-----	\$28,900,000	9%	\$30,000,000 issued but only \$28,900,000 publicly offered.
<i>1939</i>				
July 20	Southern Bell Tel. & Tel. 40-Yr. 3% Debs. 7/1/79-----	\$22,500,000	9%	\$25,000,000 issued but only \$22,500,000 publicly offered.

EXHIBIT No. 1711

[From the files of the Guaranty Trust Company of New York]

GUARANTY TRUST COMPANY OF NEW YORK,

140 Broadway, New York, June 6, 1934.

*the Stockholders of the
Guaranty Trust Company of New York:*

In my letter of January 17th last, addressed to the stockholders of the Guaranty Trust Company, I discussed at some length the problem confronting your management with respect to the disposition of the Guaranty Company of New York.

Since the date of that letter, no change has been made in the Banking Act of 1933 with respect to security affiliates of member banks.

June 16th is the date on which member banks having security affiliates must comply with the provisions of the Banking Act with respect to them.

Three alternative courses were presented and we have given these extended consideration: (a) Distribution of the stock of the Guaranty Company to the stockholders of the Trust Company under some plan whereby the stockholders of the Guaranty Trust Company would of necessity be divested of voting power, which power would rest in the hands of persons who were not stockholders of the Trust Company; (b) Some arrangement with outside interests whereby a substantial interest in the stock of the Guaranty Company would continue to be held by the Guaranty Trust Company, but with voting control in a small group of outsiders; (c) Dissolution.

The first alternative, involving a wide distribution of non-voting stock, appeared undesirable, as it would subject stockholders to all the extraordinary hazards created by the Securities Act without giving these stockholders the right to have any control over the policies of the company. Moreover, a controlling factor was the unwillingness of the leading officers of the Guaranty Company to accept the responsibilities as executive officers if such a plan were carried out.

With respect to the second alternative, since it is the intent of the Banking Act of 1933 to divest commercial banks of a continuing interest in the securities business, this course seemed objectionable. Furthermore, even though the Guaranty Trust Company under the Act might hold a minority interest in the Guaranty Company of New York, it could not escape responsibility, both moral and legal, far in excess of its proportion, in a business which it could not in fact control. It was believed that under the circumstances we could not allow the control of the Guaranty Company to pass to others.

The third alternative presented, accordingly, appeared to be the only course left to be taken; and, therefore, the purpose of this letter is to advise you that the Guaranty Company will be dissolved under the provisions of the General Corporation Law of the State of Delaware, and will cease to do a securities business on and after June 16, 1934. Its assets upon the completion of liquidation and the payment of its liabilities will be distributed to the Guaranty Trust Company of New York, the sole stockholder.

Your management had been deeply concerned with the problem facing as large an organization as the Guaranty Company of New York upon its dissolution. Most of the executive officers have been in the employ of the Company since its organization in 1920 and a number of them were in the employ of the Trust Company prior to that date. Arrangements have been made by Mr. Joseph R. Swan, President of the Guaranty Company of New York, and some of the principal executives (all of whom are retiring from the Guaranty Company of New York on or before June 16, 1934) to become members of the firm of Edward B. Smith & Co., a banking house that has for many years conducted a general securities business. It is expected that a majority of the staff of the Guaranty Company will become associated with the new firm. Certain others of the Guaranty Company organization will remain and liquidate its affairs. Others will be taken into the organization of the Trust Company, and the remainder we shall endeavor to assist in finding employment elsewhere.

Sincerely yours,

WILLIAM C. POTTER,
Chairman of the Board.

EXHIBIT No. 1712

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Maturities of certain railroad bonds

Date	Amount	Name of Company	Description of Bonds
3/1/25	\$8,000,000	New York, Pennsylvania & Ohio Railroad.... (The New York, Pennsylvania & Ohio Railroad bonds were obligations of the Nypano Railroad Co., 100% owned by the Erie Railway Company)	4½% prior lien gold bonds, dated May 5, 1880.
6/1/35	\$2,000,000	Toledo & Ohio Central Railway Company....	5% general gold bonds, dated June 1, 1894.
7/1/35	\$3,000,000	Toledo & Ohio Central Railway Company Eastern Division. (The common and preferred stocks of the Toledo & Ohio Central Railway Co. were and are 100% owned by the New York Central Railroad Company)	5% first gold bonds, dated July 1, 1885.
7/1/35	\$3,062,000	Wilmington & Weldon Railroad.....	5% general gold bonds, dated June 1, 1885.
7/1/35	\$938,000	Wilmington & Weldon Railroad..... (The Wilmington & Weldon Railroad bonds were obligations of the Atlantic Coast Line Railroad Company, which in addition had approximately \$6,500,000 of bank loans outstanding at about this time.)	4% general gold bonds, dated June 1, 1885.
10/1/35	\$2,500,000	Toledo & Ohio Central Railway Company Western Division.	5% first gold bonds, dated October 1, 1892.
10/7/35	\$6,169,000	Chicago & Western Indiana Railroad Company.	6% Collateral trust gold notes, dated October 7, 1920.

Source: Moody's Steam Railroads, 1933.

EXHIBIT No. 1713

[From the files of Smith, Barney & Co. Diary entries by J. W. C. (J. W. Cutler), H. D. M. (H. D. Moore), and K. W. (Karl Weisheit)]

NEW YORK CENTRAL RR. Co.

George Whitney spoke to JRS, and a second time to me, as to coming financing of the Road, about three weeks ago. Anderson spoke to me again last week and asked what details, if any, GW had given us. He said he himself was not familiar with the last discussion between GW and H. S. Vanderbilt, and therefore thought it best to wait until Whitney's return about February 18th. He indicated they had not yet, but would probably, also speak to Brown Harriman. JWC—2/13/35.

During lunch today at First National Bank with Sam Welldon discussion turned to railroad matters and New York C. was brought up. Continuing the conversation with Welldon after lunch I referred to the financing program recently made public in part, and indicated the hope we might handle the business. He said he knew Mr. Reynolds had us very much in mind and that he, himself, is going to speak to Reynolds about it. Reynolds and Baker are both directors of the railroad. JWC—3/7/35.

Add.—Welldon subsequently called me on the telephone and said that he had had a talk with Reynolds which was of an entirely satisfactory nature from our point of view, and that Reynolds indicated it was not necessary for us to say or do anything further. JWC—3/7/35.

Talked to Mr. Reynolds at the First National Bank. He said the railroad people had been in Washington the last few days talking with Jesse Jones, and that until they knew what could be done there they could not take any action. He seemed gravely concerned about all our railroad situations. JWC—4/12/35.

I estimate that New York Central will receive about \$5,000,000 cash as a result of the issuance of \$12,000,000 Monongahela First Mortgage 4½ Bonds, Series "A", due 1960. IIDM—4/22/35.

I learned today that J. P. M. are actively cooperating with the New York Central in the preparation of the new Toledo and Ohio Central mortgage which will be used to finance \$7,500,000 of T. & O. C. maturities during 1935. IIDM—4/23/35.

Having in mind my conversation with HSV a week ago, I stopped to see Weldon at the First Natl Bank. He said HSV was still in Washington, working with Jones of RFC, who was endeavoring to make banks transform their demand loans into time loans, which neither the banks nor the railroad wanted done. Nothing definite yet and he suggested there was nothing to do but await results. JWC—5/6/35.

Re Toledo & Ohio Central, spoke to G. Whitney. He said nothing would be done for two or three weeks, and that everyone in town had been in to see him about it. Will probably mean that the railroad or JPM&Co. will make up an account and hand it to someone to put thru. (Re Canada Southern, Prudential and Metropolitan went direct to the railroad). JWC—5/3/35.

Working on \$12,500,000 Toledo & Ohio Central offering which it is hoped to release last of next week. First Boston will be leader of business. HDM—6/22/35.

A. N. Jones, of Morgan Stanley, said they were not giving any consideration to refunding the Convertible 6s and considered refunding of the bank loans the important problem at the moment. KW—1/21/36.

EXHIBIT No. 1714-1

[From the files of the New York Central Railroad Company]

23 WALL STREET, NEW YORK, June 18, 1935.

DEAR WILLARD: I am enclosing herewith a list concerning which I spoke to you today.

Sincerely yours,

JOHN M. YOUNG.

WILLARD PLACE, Esq.,
New York Central Railroad Company,
230 Park Avenue, New York City.

Enclosure

1. Original Group:	O. G.	S. G.
Brown Harriman & Co. Inc.-----	3,000,000	1,500,000
E. B. Smith & Co.-----	3,000,000	1,500,000
First Boston Corporation-----	3,000,000	1,500,000
Lee, Higginson & Co.-----	1,750,000	1,000,000
Kidder, Peabody & Co.-----	1,750,000	1,000,000
	<u>12,500,000</u>	<u>6,500,000</u>
2. Secondary Group:		
Blyth & Co.-----		500,000
Clark Dodge & Co.-----		400,000
R. L. Day & Co.-----		350,000
Dick & Merle-Smith-----		250,000
Dominick & Dominick-----		200,000
Estabrook & Co.-----		200,000
Field Glore & Co.-----		200,000
Foster & Co.-----		400,000
Hayden Stone & Co.-----		300,000
Hornblower & Weeks-----		250,000
W. E. Hutten & Co.-----		200,000
Kean Taylor & Co.-----		250,000
Lazard Freres & Co. Inc.-----		500,000
F. S. Moseley & Co.-----		200,000
G. M. P. Murphy-----		100,000
Paine Webber & Co.-----		150,000
Pressprich & Co.-----		500,000
Salomon Bros. & Hutzler-----		250,000
J. & W. Seligman & Co.-----		250,000
White Weld & Co.-----		300,000
Whiting Weeks & Knowles-----		250,000
		<u>12,500,000</u>

June 18, 1935

EXHIBIT No. 1714-2

[From the files of the New York Central Railroad Company]

(Handwritten) :

Stone Webster	-----	100,000
Clark Dodge }	-----	
Field Glore }	-----	less 50,000 each.

"EXHIBIT No. 1715" appears in full in the text, p. 12013.

"EXHIBIT No. 1716" appears in full in the text, p. 12014.

EXHIBIT No. 1717

[From the files of The First Boston Corporation]

THE TOLEDO & OHIO CENTRAL RAILROAD—\$12,000,000 REFUNDING AND IMPROVEMENT MORTGAGE 3¾% BONDS, SERIES A, DUE JUNE 1, 1960, GUARANTEED BOTH AS TO PRINCIPAL AND INTEREST BY ENDORSEMENT BY THE NEW YORK CENTRAL RAILROAD

Mr. Whitney of J. P. Morgan & Co. invited Mr. Ripley of Brown Harriman & Co., Mr. Swan of Edward B. Smith & Co. and myself to come over to their office today to discuss the above proposed issue. The road wishes to sell these bonds to the public at par and proposes to allow the bankers two points. The principals' interests will be as follows:

First Boston	-----	\$3,000,000
Brown Harriman	-----	3,000,000
E. B. Smith	-----	3,000,000
Kidder Peabody	-----	1,750,000
Lee, Higginson	-----	1,750,000

Morgan have a list of, I think, about fifteen or sixteen names of people whom they want to have an amount of bonds, which they have not yet discussed with us, at a set-up of ½ of 1%. At the outset Mr. Whitney said they did not want to decide what the order of precedence should be as between Brown, Smith and ourselves, so we matched for it and that resulted in our being in first place, Brown second and Smith third. In the absence of Mr. Whitney I have advised Mr. Young of J. P. Morgan & Co. to that effect, and also of the meeting referred to below.

Mr. Whitney asked us to speak to Kidder and Lee Higginson about it, which I have done, and there will be a meeting of the five principals at this office Tuesday at two o'clock. The mortgage, circular, etc. are already pretty well lined up under the direction of Davis, Polk, Wardwell, Gardiner & Reed, and understand Mr. Howland Auchincloss and Mr. MacVeigh of that firm are handling the matter and will act as counsel for the bankers.

Mr. Young is arranging to get additional sets of the literature to include circulars, supplementary information and mortgage sent to Kidder Peabody and Lee Higginson in the morning. We will have extra copies at the same time. Mr. Nevil Ford will handle the matter for us in cooperation with the writer and Mr. Smyth is making a careful study of the mortgage figures, etc. Doubtless at some point in the proceedings a brief inspection trip will be desirable. Mr. Place will handle the matter for the New York Central. The road is apparently desirous of proceeding in the operation as soon as possible, and after the meeting of the principals tomorrow, probably the next move will be to get in touch with the lawyers and with Mr. Place.

H. M. ADDINSELL.

JUNE 17TH, 1935.

EXHIBIT No. 1718

[From the files of The First Boston Corporation]

[Telegram]

By direct wire from The First Boston Corporation.

BOSTON, MASS., June 21, 1935.

JOHN R. MACOMBER,

Chairman, The First Boston Corporation:

I understand that Toledo & Ohio business has been turned over to you Smith and Brown Harriman much as Albany issue was given to us to handle that the bankers decided among themselves who was to head the business and that some suggestions were made as to who might be included stop As this is New York Central business and at least distantly related to Albany I dont see how the First Boston Smith and Brown Harriman can fail to include Whiting Weeks & Knowles on terms equal to anyone appearing after the three principals and we feel we are entitled to an interest of five percent as you know Brown and Smith each had seven percent in Albany.

(Handwritten): WHITING WEEKS & KNOWLES,
MAX O. WHITING.

EXHIBIT No. 1719

[From the files of The First Boston Corporation]

TELEGRAM FROM JOHN R. MACOMBER TO M. O. WHITING

(Handwritten): Toledo & Ohio
Transmit to Boston.

Date June 21st, 1935.

Please deliver following to M. O. Whiting, Whiting Weeks & Knowles.

Telegram received. Understand Nevil Ford went over this situation with you yesterday and explained it fully stop As a matter of fact business referred to came to First group which included two other houses than those you named all set up and with secondary group named by the road with amounts stop We had nothing to do with guiding this and have got to handle as instructed by them stop You are of course included in this but cannot see how we can do anything but accept the schedule as presented and over which we have no control stop Will be in Boston Monday.

J. R. M.

"EXHIBIT No. 1720" appears in full in the text, p. 12020.

EXHIBIT No. 1721

[From the files of The First Boston Corporation]

\$12,500,000 The Toledo & Ohio Central Railway Company Refunding & Improvement Mtge. 3¾% Bonds, Series A, Due June 1, 1960

There was a selling group consisting of 22 names to whom there were allotted \$6,000,000 of bonds. The list is given below:

Blyth & Co.....	\$500,000
Clark, Dodge & Co.....	400,000
R. L. Day & Co.....	350,000
Dick & Merle-Smith.....	250,000
Dominick & Dominick.....	200,000
Estabrook & Co.....	200,000

Field Glore & Co.....	\$150,000
Foster & Co.....	400,000
Hayden Stone & Co.....	300,000
Hornblower & Weeks.....	250,000
W. E. Hutton & Co.....	150,000
Kean, Taylor & Co.....	250,000
Lazard Freres & Co., Inc.....	500,000
F. S. Moseley & Co.....	200,000
G. M. P. Murphy & Co.....	100,000
Paine Webber & Co.....	150,000
Pressprich & Co.....	500,000
Salomon Bros. & Hutzler.....	250,000
Stone & Webster and Blodget.....	100,000
J. & W. Seligman & Co.....	250,000
White Weld & Co.....	300,000
Whiting, Weeks & Knowles.....	250,000
	<hr/>
	\$6,000,000

EXHIBIT No. 1722

[From the files of Smith, Barney & Co. Diary entries by J. W. C. (J. W. Cutler) and K. W. (Karl Weisheit)]

NEW YORK, PENNSYLVANIA & OHIO RAILROAD

George Whitney spoke to me Dec. 7th reference underwriting extension of the \$8,000,000 4½s due March 1st 1935. Said he thought it should be handled 50-50 Brown Harriman and ourselves, and asked me to advise Ripley and arrange a meeting. He suggested the 4% bond be underwritten at par for 1% commission, on theory that about two-thirds of present holders would take new bonds. JWC—12/10/34.

BW and I with Ripley and Davis met with Messrs. Whitney and Anderson yesterday. The above was substantially confirmed, with the exception of maturity, where 10 to 15 years was suggested. Time element involved in underwriting approximately 30 days, and commitment on such basis would have to be made about February 1st. We assume we would head this account as bankers for Van Sweringens but Whitney and Anderson did not want to discuss this phase of it, suggesting we work it out between ourselves and BH&Co. JWC—12/12/34.

BW and I lunched with Messrs. Ripley and Davis. Discussed in some detail the proposed extension and agreed on 4% coupon, 10 to 15 years attractive, also price of par. However, felt that 1% underwriting commission small under present conditions. Would like to see 1% on total underwritten, plus 1% on bonds taken up by underwriters. On question of leadership, we said that we felt as bankers for the Van Sweringens we should handle the account and head the business on a 50-50 basis. This was agreed to. Question of Long Dock Co. 6's due next year, brought up, but was left to be discussed if and when it came up. JWC and/or BW arrange to continue with Anderson of JPM&Co. JWC—12/17/34.

Agreement with Railroad Company and our associates signed today; letter is being sent out tonight and Railroad Company's Extension Offer and our purchase offer to be advertised tomorrow. KW—2/13/35.

EXHIBIT No. 1723

[From the files of the Erie Railroad Company. Extract from minutes of a meeting of the board of directors of the Erie Railroad Company, Dec. 28, 1934]

The Chairman reported that the \$8,000,000 principal amount of The New York, Pennsylvania and Ohio Railroad Company Prior Lien Mortgage Extended 4½% Bonds, as extended by agreement of December 18, 1894, will mature March 1, 1935. That The Nypano Railroad Company, as successor of The New York, Pennsylvania and Ohio Railroad Company, is arranging for the extension

of said bonds for the period of fifteen years from March 1, 1935, with provision for the right to call such bonds for payment at earlier dates on terms set forth in the form of extension contract of The Nypano Railroad Company which he submitted to the meeting, with interest at the rate of four per cent (4%) per annum, payable semi-annually, during the extended period, the principal and interest of the bonds so extended to be payable only in New York and only in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts in the United States of America.

The Chairman also stated that preliminary negotiations have been had on behalf of the Company with its bankers with respect to the proposed extension. He stated that while no final arrangements had been concluded the Company was endeavoring to make an arrangement whereby the bankers would agree (contingent upon authorization of the extension by the Interstate Commerce Commission) to purchase such of the bonds as were not surrendered for extension by the holders thereof, and then to present for extension the bonds so purchased; and he also stated that when arrangements with the bankers had been finalized a copy of the definitive agreement would be submitted for authorization to the Board of Directors, or to the Executive Committee. He explained that it was regarded as advisable for the Board to take action at this time on the general question of the extension in order to permit application forthwith to the Interstate Commerce Commission for the necessary authority for the extension under Section 20a of the Interstate Commerce Act.

The Chairman also submitted to the Board a form of Extension Contract for execution by The Nypano Railroad Company and form of coupon sheet to be attached to the bonds upon extension.

The Chairman recommended that this Company approve such extension and the terms thereof.

Whereupon, on motion seconded and carried by the unanimous vote by those present, it was

Resolved, that this Company hereby approve the extension of said The New York, Pennsylvania and Ohio Railroad Company Prior Lien Mortgage extended 4½% Bonds, for the period of fifteen years from March 1, 1935 upon the terms aforesaid, substantially in the form presented, as may be approved by Counsel.

Resolved, that this Company make application or join in the application of The Nypano Railroad Company to the Interstate Commerce Commission under Section 20a of the Interstate Commerce Act, so far as the same may be necessary in connection with the obligation of this Company to pay the interest on said Prior Lien Bonds as lessee of the premises covered by the Mortgage securing the bonds.

Resolved, that the President, C. E. Denney, and/or the Vice President and Secretary, Geo H. Minor, and/or the General Counsel, H. A. Taylor, each be and he hereby is, authorized and directed to sign, verify and file for and in the name of, and on behalf of this Company, either by itself or jointly with The Nypano Railroad Company, application or applications or petition or petitions, to the Interstate Commerce Commission for authority in so far as such authority may be necessary, to assume obligation and liability as lessee with respect of the payment of the interest on said \$8,000,000 principal amount of The New York, Pennsylvania and Ohio Railroad Company Prior Lien Mortgage Extended 4½% Bonds, and to take any and all actions and proceedings that may be necessary in connection therewith.

Resolved, that the proper officers of this Company be, and they hereby are, authorized to do all acts and things which may be desirable or necessary, and which may be advised by Counsel, for the purpose of carrying out the intent of the foregoing resolutions.

I HEREBY CERTIFY that the foregoing is a true copy of an extract from the minutes of a meeting of the Board of Directors of Erie Railroad Company, duly called and held on December 28, 1934, at which meeting a quorum was present and the foregoing resolutions were duly adopted.

C. B. POST, Assistant Secretary.

EXHIBIT No. 1724

[From the files of Smith, Barney & Co.]

(Handwritten) also *J. P. M. & Co. Memo.*

Memorandum to Mr. J. W. Cutler.

December 11, 1934.

RE: ERIE FINANCING

The Van Sweringen interests started the accumulation of Erie stock in either 1923 or 1924 but did not enter the management of the property until 1926 when Mr. Bernet became a director and was made president in 1927. The major financing from the date of the first accumulation of stock in volume to the present time was as follows:

Date of Offering	Amount	Name of Issue	Syndicate
6/28/24 4/10/26	\$10,000,000 2,190,000 18,725,000	Two Year 5% Note..... Equipment 4½'s..... 6% Participation Cfts., due 1930.....	J. P. Morgan & Co. Drexel & Co. Shawmut Corporation. W. H. Newbolds' Son & Co. Moore, Leonard & Lynch Hambleton & Co. Ed. Lowber Stokes & Co.
5/9/27	50,000,000	Ref. & Imp. Mtge. 5's, 1967.....	J. P. Morgan & Co. First National Bank of N. Y. National City Co.
7/7/27 10/24/28 7/23/29	6,422,000 5,340,000 8,370,000	Equip. 4½'s, 1930-42..... Equipment 4½'s..... Equip. 4½'s, 1930-44.....	Drexel & Co. Salomon Bros. & Hutzler First National Corp. Harrison Smith & Co. Kean Taylor & Co.
4/8/30	50,000,000	Ref. & Imp. Mtge. 5's, 1975.....	J. P. Morgan & Co. First National Bank of N. Y. National City Co.
7/1/30	6,690,000	Equip. 4½'s, 1930-45.....	Drexel & Co.

¹ This issue was purchased from the U. S. Treasury. We considered it with E. Lowber Stokes but dropped out at request of Mr. Sturgis of First National as Company was anxious to obtain a reduction in the rate of interest.

NOTE: Drexel and White Weld underwrote the extension of \$4,616,000 New York & Erie Third Mortgage Extended 4½'s which matured March 1, 1933.

The Guaranty did not have an original interest in any of the above Erie financing but did have a 6% interest in the selling groups formed in connection with the two offerings of \$50,000,000 of First and Refunding Mortgage 5s. I did not check the smaller issues for selling group interests.

Ownership of Erie Stock.

The initial purchases are not known but in 1929 when Alleghany Corporation was formed the original portfolio included 215,000 shares of Erie common stock (Limited by N. Y. Statute). This stock is now under option to the Chesapeake & Ohio.

In addition Chesapeake Corporation owns 69,000 shares and the following shares were held by Virginia Transportation Co. as of April 30, 1930:

526,700 shares.	Common.
135,605 "	First Preferred.
50,495 "	Second Preferred.

There are also 10,900 shares Second Preferred owned by Vaness Company.

Bank Loans.

In connection with the outstanding bank loans, the original interests were to be as follows:

Guaranty Trust.....	\$1,250,000
First National.....	1,250,000
Harriman (\$400,000 secured, \$200,000 unsecured, legal limit \$400,000).....	600,000
Chemical.....	600,000
Chatham-Phenix.....	1,050,000
Chase.....	600,000
Commercial Trust Co. of Jersey City.....	950,000

\$6,300,000

The Company received only \$5,500,000 of the above loans which were subsequently reduced $\frac{1}{2}$ with the proceeds of a R. F. C. loan.

These loans were arranged without advice to J. P. Morgan & Co. and when the Guaranty advised them of the loan they decided that they did not wish to go along. It should also be noted that the National City Company was not included.

Miscellaneous.

In February 1930, Mr. Swan spoke to J. P. Morgan & Co. regarding the Guaranty's interest in Erie financing. J. P. Morgan & Co. thought that they should go over all of their financing in which the Van Sweringen were interested and review the Guaranty's interests. They recognized the Guaranty's claim on Pere Marquette financing but did not revise the Guaranty's interest in the Erie financing of \$50,000,000 Refunding and Improvement Mortgage Bonds the following April.

Following the acquisition of an interest in the stock by the Van Sweringen interests, the Guaranty received an interest of 26% in Chesapeake and Ohio, 18% in Pere Marquette and 20% in Missouri Pacific. The Missouri Pacific interest was in a Special Purchase Group because of the then interlocking directorate situation.

The syndicate imprints of these various groups were as follows:

C. & O.	P. M.	Mo. Pac.
J. P. Morgan & Co.-----	J. P. Morgan & Co.-----	J. P. Morgan & Co.
Kuhn Loeb & Co.-----	First National Bank of New York	Kuhn Loeb & Co.
First National Bank-----	Guaranty Company-----	Guaranty Co.
Guaranty Company-----	National City-----	First Nat'l. Bk. of N. Y.
National City-----	J. & W. Seligman-----	National City.
	Chase Securities-----	Chase Securities.
		Bankers.

Comments

I am inclined to the belief that we should limit our claim to the leadership of the proposed underwriting of the Erie extension to the basis that it is Van Sweringen financing. If we take the position that the stock is owned by Chesapeake & Ohio it is possible that we may open up the claim of Kuhn Loeb to a leading position whether or not they have been invited to consider the business.

We must also consider the extent, if any, to which we may be committed to Lee Higginson. In this connection they were included in Chesapeake Corporation (initial issue) because part of the C. & O. stock was at that time owned by Nickel Plate. It was stated, however, at the time that their inclusion and interest were not to constitute a precedent. Also, while they appeared in Alleghany financing the Guaranty Company retained the management fee and warrants.

HDM:HBM

HORACE D. MOORE.

EXHIBIT No. 1725

[From the files of Harriman Ripley & Co., Incorporated. Memorandum by Joseph P. Ripley to H. C. Sylvester, Jr., and P. V. Davis]

DECEMBER 17, 1934.

Memorandum to Mr. H. C. Sylvester, Jr., Vice President,
Mr. P. V. Davis, Vice President.

SUBJECT: *Erie Railroad*

After hearing the whole story I have seen fit to let E. B. Smith Company head the account on New York, Pennsylvania and Ohio Extension bond proposition. Their name comes first, ours second; interest to be 50/50; managership is to be shown as it was in the Chicago & Western Indiana. Nobody else should be brought into the account until both of us approve, and we both think only the two of us should do the business.

We have reserved the right to bring this matter up again when the Long Dock bonds mature in October, 1935.

I hope both of you agree with my decision in this matter which I will explain in more detail when I see you.

J. P. R.

EXHIBIT No. 1726

[From the files of Smith, Barney & Co.]

Handwritten: Mr. J. Land.
No. 118
Buying Department Memorandum

FEBRUARY 13, 1935.

EXTENSION OF THE \$8,000,000
THE NEW YORK, PENNSYLVANIA AND OHIO RAILROAD COMPANY
PRIOR LIEN MORTGAGE 4½% BONDS

For Record Purposes Only.

In connection with the participations accepted by Messrs. White, Weld & Co., Kuhn, Loeb & Co., Clark, Dodge & Co. and Goldman, Sachs & Co. in our contract with the Nypano Railroad Company dated February 13, 1935, it was stated in each instance that the respective interests were not to constitute a precedent for future Erie financing. This was stated verbally but was not included in the letters addressed to and accepted by each of these firms.

We were advised by Mr. Arthur Anderson, of J. P. Morgan & Co., that White, Weld & Co. had been associated with J. P. Morgan & Co. or Drexel & Co. in the underwriting of a number of former Erie extensions and commented that they had approached him in connection with the underwriting of this extension. Mr. Anderson did not specifically request that we include White, Weld & Co. but he was pleased when informed that we had offered White, Weld & Co. an interest of 15 %.

After Kuhn, Loeb & Co. had been offered and had accepted an interest of 10%, we learned that they had approached J. P. Morgan & Co. concerning the business.

An interest of 5% was offered to Clark, Dodge & Co. because of Mr. Francis Ward's recent affiliation with the firm.

We considered offering a participation to Morgan Grenfell & Co. Limited, but were advised that they were unwilling to accept an interest before the release of the decision of the Supreme Court on the gold cases. We also offered an interest of 5% to Dillon Read & Co. which was declined.

J. W. CUTLER.

JWC:HDM:HBM

EXHIBIT No. 1727

[From the files of Smith, Barney & Co.]

[Diary entries by J. W. C. (J. W. Cutler) and K. W. (Karl Weisheit)]

ATLANTIC COAST LINE R. R. Co.

JRS and I spoke to GW regarding possible financing. Road wants to sell about \$12,000,000 bonds when it can. Business pretty fair first six months but falling off now. No reason why we should not approach Lyman Delano direct, which we plan to do. JWC-9/20/34.

JWC and JRS lunched with Lyman Delano, Chairman today. Delano said he had extended his six-months' loan with the banks (JPM&Co loan secured by General 4½% bonds) for another six months from October 1st. In addition to this he would need another \$6,000,000 next year and would like to sell not less than \$12,000,000 of the General Unified 4½s (\$2 present market) if and when market would take them. He has been discussing his financial needs with JPM&Co. and will continue. Approx. \$80,000,000 General 4½s held in treasury have been approved by Commission and would only need approval on price of issue. The Carolina, Clinchfield & Ohio 5s have not been approved by Commission and he would not go to Commission now on this. JWC see GW and follow. JWC-9/26/34.

I reported the above conversation to Anderson of JPM&Co in Whitney's absence abroad. JWC-10/11/34.

Reported to Whitney conversation JRS and I had with Delano as above. Loan extended to April 1st. JWC-12/7/34.

G. Whitney called JRS yesterday and said that Mr. Delano had seen him and he thought it was time to consider doing something. He also spoke of our

discussion with him some months ago as reported above. It was left we were to study the situation and decide what, in our opinion, could be done, and go back to G.W. JWC-1/10/35.

JRS and I talked with G. Whitney and told him we would be very much interested in considering the underwriting of \$12,000,000 of above bonds, but felt before talking more definitely we would like to have additional information. Bonds are now selling around 92 and we indicated that if issue were made it ought to be a substantial concession from this price. In a firm meeting 2½ to 3 points off 89 seemed to be consensus of opinion. Whitney will speak to Brown Harriman and then advise Delano he has spoken to both of us. He further indicated on account of the old three-way account that he assumed BH&Co. should lead. JWC-1/10/35.

Ran into G. Whitney again and in view of what we thought he indicated yesterday regarding leadership, reminded him that in the three issues of Coast Line securities since the war, JPM&Co. had appeared alone, the last issue for the three-way appearance being in 1915. He said he realized that and merely indicated to us yesterday that he considered ourselves and BH&Co. 50-50, leaving us to work out leadership between us. JWC-1/11/35.

Frank Weld came in today. Said he had talked with Messrs. Delano and and F. B. Adams of the railroad and also Arthur Anderson. He is very anxious to be included in the business. We made no definite commitment but indicated banking group position. JWC-2/6/35.

With Pierpont Davis, I had very satisfactory talk with Lyman Delano followed by talk with Whitney. Under present market conditions, all agreed only thing to do was to wait in hope situation would improve. Felt undecided to ask I. C. C. for price revision. JWC-3/1/35.

Davis and I talked with Messrs. Delano and Elliott, and with the approval of Davis Polk saw no reason why the I. C. C. should not go ahead with its approval of sale. Twice our names appeared, but no commitment indicated. JWC-3/5/35.

George Whitney yesterday mentioned possibility of getting back to collateral trust idea if present condition of bond market continues much longer. He mentioned bank loan maturity of March 30th. JWC-3/7/35.

JRS, Davis and I talked with G. Whitney. Expressed opinion we did not think today's market would take collateral trust issue, to which he agreed. He, however, suggested it might be wise to advise Mr. Delano in order that he might get the necessary authority at his Board meeting tomorrow to issue in collateral trust form, leaving coupon and price to be determined later. When he had done this it would be wise to inform Sweet at the ICC, so that approval of the change in form could be got promptly when we were ready to go ahead. (Whitney had already spoken to Mehafee about it). Price was not discussed at meeting but majority of ideas here seem to center on 4½% coupon to be sold at a 4.75 basis or better. Ten-year collateral note to be secured two for one. JWC-3/20/35.

Whitney also said Company had made arrangements to extend its bank loan, due March 30th, for a period of six months, payable any time on 15 days' notice. JWC-3/21/35.

\$12,000,000 Ten-Year Collateral Trust 5% Notes offered today. KW-5/3/35.

EXHIBIT No. 1728-1

[From the files of the Atlantic Coast Line Railroad Company]

MAY 21st, 1935.

Mr. W. D. McCaig,

Comptroller Atlantic Coast Line Railroad Co.

Wilmington, North Carolina.

DEAR SIR: Referring to my letter of May 17th, enclosing certified copy of various resolutions of the Board of Directors and other papers relating to sale of \$12,000,000 of this Company's Ten Year Collateral Trust 5% Notes due May 1st, 1945.

I now advise you as follows:

On Thursday, May 16th, 1935, the Indenture, dated as of May 1, 1935, securing the above mentioned Ten Year Collateral Trust 5% Notes was executed on behalf of this Company and the Guaranty Trust Co. of New York, as Trustee, and there was delivered on behalf of this Company to said Trustee, as collateral security for

the \$12,000,000. of Notes to be issued under said Indenture, Temporary General Unified Mortgage Fifty Year Series A 4½% Bond Certificate No. 201, dated May 15th, 1935, in the principal amount of \$25,000,000, registered in the name of

"Guaranty Trust Company of New York, as Trustee under Atlantic Coast Line Railroad Company Collateral Trust Indenture, dated as of May 1, 1935."

On May 21st, 1935, the said \$12,000,000. of Notes, executed on behalf of this Company and authenticated by the Trustee, were delivered, in accordance with the contract of sale, copy of which contract is enclosed herewith, to Brown, Harriman & Co., Incorporated, 63 Wall Street, New York, for account of the purchasers. Delivery was then made by the purchasers to this Company of certified checks for amounts aggregating a total of \$11,733,333.33 covering payment for said Notes at 97½% and accrued interest from May 1st to May 21st, 1935, the details of such purchasers and payments being as follows:

Purchaser	Par of notes purchased	Payment for—		Total payment made
		Principal	Interest	
Brown, Harriman & Co., Inc.....	\$3,000,000	\$2,925,000	\$8,333.33	\$2,933,333.33
Edward B. Smith & Co.....	3,000,000	2,925,000	8,333.33	2,933,333.33
The First Boston Corp.....	1,500,000	1,462,500	4,166.67	1,466,666.67
Kidder, Peabody & Co.....	1,000,000	975,000	2,777.78	977,777.78
Kuhn, Loeb & Co.....	1,000,000	975,000	2,777.78	977,777.78
Lee Higginson Corp.....	1,000,000	975,000	2,777.78	977,777.78
W. E. Hutton & Co.....	500,000	487,500	1,388.89	488,888.89
White Weld & Co.....	500,000	487,500	1,388.89	488,888.89
H. M. Byllesby & Co., Inc.....	250,000	243,750	694.44	244,444.44
Schoellkopf, Hutton & Pomeroy, Inc.....	250,000	243,750	694.44	244,444.44
	\$12,000,000	\$11,700,000	\$33,333.33	\$11,733,333.33

Upon receipt of the certified checks, aggregating \$11,733,333.33, above mentioned, the same were immediately endorsed by me as follows:

"Pay to the order of J. P. Morgan & Co.

ATLANTIC COAST LINE RAILROAD COMPANY
By H. L. BORDEN, *Assistant Treasurer.*"

and deposited to the credit of this Company with Messrs. J. P. Morgan & Co., 23 Wall Street, New York City.

Immediately following above mentioned deposit, there was delivered to Messrs. J. P. Morgan & Co. check dated May 21st, 1935, in amount of \$4,000,000, signed by Mr. J. J. Nelligan, Assistant Treasurer of this Company, countersigned on behalf of Safe Deposit & Trust Co. of Baltimore, drawn against said deposit and payable to

"J. P. Morgan & Co. in trust for Safe Deposit and Trust Co. of Baltimore, Escrow Agent under agreement with Atlantic Coast Line Railroad Company".

The said \$4,000,000 will be used by direction to J. P. Morgan & Co. given by the Safe Deposit & Trust Co. of Baltimore, as Escrow Agent, in making payment on and after July 1st, 1935, of the \$3,062,000 of 5% Bonds and \$938,000 of 4% Bonds of Wilmington & Weldon Railroad Co. maturing July 1st, 1935, under the terms of the escrow agreement between Atlantic Coast Line Railroad Co. and Safe Deposit & Trust Co. of Baltimore, dated May 13th, 1935, copy of which is also enclosed herewith. Upon such delivery of said check for \$4,000,000, the balance to credit of this Company with Messrs. J. P. Morgan & Co. amounted to \$7,733,333.33.

There has also been drawn as of this date a check for \$33,333.33 upon Messrs. J. P. Morgan & Co., signed on behalf of this Company and countersigned on behalf of Safe Deposit & Trust Co. of Baltimore, for credit to the Fiscal Agent Account of this Company with Safe Deposit & Trust Co. of Baltimore. Said amount represents accrued interest from May 1st to May 21st, 1935, paid by the purchasers of the \$12,000,000 of Notes in the sale above described. You will, in due course, receive advice from the Fiscal Agent of said withdrawal from Messrs. J. P. Morgan & Co. and credit to the Fiscal Agent Account. After such withdrawal there will remain a balance of \$7,700,000 to the credit of this Company with Messrs. J. P. Morgan & Co.

You have previously been advised that on Saturday, May 25th, 1935, payment will be made by this Company of the principal and accrued interest from March

30th, 1935 to May 25th, 1935, on the \$6,500,000 of short-term notes, bearing 4% interest, held by various banks, etc., which said notes mature September 30th, 1935, but are payable at this Company's option on fifteen days' written notice, which written notice to pay was given by this Company on May 10th, 1935.

Payment of the principal, \$6,500,000, of the several short-term notes will be made by checks drawn on Messrs. J. P. Morgan & Co. by Mr. J. J. Nelligan, Assistant Treasurer of the Company and countersigned on behalf of Safe Deposit & Trust Co. of Baltimore. Payment of interest to May 25th, 1935, aggregating \$39,890.43, on said short-term notes will be made by checks drawn on behalf of this Company against the Fiscal Agent Account, advice respecting which will, in due course, be furnished to you by the Fiscal Agent.

The details of the holders of the short-term notes and amounts to be paid thereto for principal and interest of said short-term notes are as follows:

	Principal (Payment by check drawn on J. P. Morgan & Co.)	Interest (Payment by check charged to Fiscal Agent Acct.)
Bankers Trust Co.	\$1,000,000	\$6, 136.99
Central Hanover Bank & Trust Co.	1,000,000	6, 136.99
The First National Bank of the City of New York.	1,000,000	6, 136.99
Guaranty Trust Co. of New York.	1,000,000	6, 136.99
United States Trust Co. of N. Y.	1,000,000	6, 136.99
J. P. Morgan & Co.	1,000,000	6, 136.99
The New York Trust Co.	500,000	3, 068.49
	\$6, 500,000	\$39, 890.43

Upon delivery of the checks in payment of principal and accrued interest of the short-term notes as above recited, the canceled notes will be surrendered to this Company, together with the Temporary General Unified Mortgage Series A 4½% Bond Certificates now held by the respective note holders as collateral security for said notes, details of which bond certificates are as follows:

Temporary Bond Certificate Number	Principal amount of Bond Certificate	Held as Collateral by:
182.	\$1, 539,000	The First National Bank of the City of New York.
190.	249,000	
183.	1, 539,000	
181.	249,000	Central Hanover Bank and Trust Co.
191.	1, 539,000	
184.	249,000	Guaranty Trust Co. of New York.
192.	1, 538,000	
185.	250,000	
193.	1, 538,000	J. P. Morgan & Co.
186.	250,000	
194.	1, 538,000	United States Trust Co. of New York.
187.	250,000	
195.	1, 538,000	Bankers Trust Co.
188.	250,000	
196.	769,000	The New York Trust Co.
	125,000	
	\$11, 622,000	

The said Temporary Bond Certificates will be returned to the Treasury of the Atlantic Coast Line Railroad Co.

Upon completion of payment of the \$6,500,000 of short-term notes by checks drawn on Messrs. J. P. Morgan & Co., as above described, there will remain on time deposit with that firm to the credit of Atlantic Coast Line Railroad Co. the sum of \$1,200,000, which amount it has been agreed will be repayable to this Company on December 27th, 1935, and will bear interest at the rate of ¼ of 1% for the term of the deposit.

Will be obliged if you will have prepared and sent to me for submission to the Chairman for approval, copy of journal entries to be made on the books of this Company to cover the several transactions above described.

Yours very truly,

H. L. BORDEN, *Vice President.*

Enc.
Copy.

EXHIBIT No. 1728-2

[From the files of the Atlantic Coast Line Railroad Company]

MAY 22nd, 1935-p.

DEAR ROLAND: I know you will be interested to know that we closed the transaction covering the sale of the \$12,000,000 Collateral Trust Notes, and the proceeds, \$11,700,000, were deposited with J. P. Morgan & Co. yesterday morning.

Sincerely yours,

Original signed by Mr. DEIANO.

Personal.

ROLAND L. REDMOND, Esq.,
Carter, Ledyard & Milburn,
2 Wall Street, New York City.

EXHIBIT No. 1729

[From the files of Smith, Barney & Co.]

CROSS INDEX: CHICAGO AND WESTERN INDIANA RAILROAD CO. FINANCING CITY OF PHILADELPHIA ACCOUNT

RE: BROWN HARRIMAN & CO., INCORPORATED

Brown Harriman & Co., Incorporated, and Edward B. Smith & Co. were invited by J. P. Morgan & Co. to consider the purchase and sale of a block of \$1,658,000 Chicago and Western Indiana R. R. Co. First and Refunding Mortgage 5½% Series C Bonds owned by the Chicago, Burlington and Quincy R. R. Co. It also developed that the Chicago and Western Indiana wished to sell \$6,340,000 5½% Series A Bonds for refunding purposes. An investigation of the Chicago and Western Indiana was undertaken jointly by Brown Harriman and ourselves without any determination by J. P. Morgan & Co. or the two of us concerned of the question of leadership. Morgan said it was up to the two houses to settle this matter between themselves. Brown Harriman claimed the leadership primarily on the grounds that the National City Company had a historical and appearing position in former syndicate offerings. Our claims to the leadership were based primarily on the ownership of ⅔ of the capital stock of the Company by the Van Sweringen interests which were to acquire an additional ⅓ when and if the Wabash decided to withdraw. Our offer to toss a coin for the leadership was declined and as a counter proposal it was suggested that the question be referred to J. P. Morgan & Co. for decision.

These conversations were concluded on a Friday night by Messrs. Davis, Sylvester and the undersigned and on the next morning Mr. Davis arranged for a meeting with Mr. T. S. Lamont who was the Morgan partner available that morning. In the meantime, however, I talked to several partners and it was decided that we would offer the leadership to Brown Harriman, we, however, to be joint in everything else, including managership.

This resulted in a very satisfactory meeting with Mr. Davis and later with him and Mr. Sylvester, who wrote on July 17, 1934, stating that he appreciated the stand we took on the Chicago & Western Indiana and that they wanted us to feel that they would be glad to be associated with Edward B. Smith & Co. on any piece of business on a give and take basis. In this letter Mr. Sylvester also suggested in connection with the tentative City of Philadelphia 4/4 account that the managership rotate with each bid, that is, on the bid for the first issue the group would be as follows: Brown Harriman & Co., Edward B. Smith & Co., Union Trust Company, Pittsburgh, Kidder, Peabody & Co.

On the next issue Edward B. Smith & Co. would appear on the bid as syndicate manager and Brown Harriman & Co. would appear fourth, and so on down the list with each successive bid. In the advertisement of bonds awarded to the group the syndicate imprint would be the same as the group submitting the bid. This suggestion was accepted by us by telephone and referred to later by letter dated August 3, 1934.

The above correspondence has been placed in the files of the Municipal Department.

B. WALKER.

(Handwritten:) Check all this with J. R. K.

EXHIBIT No. 1730

[From the files of Smith, Barney & Co.]

EDWARD B. SMITH & Co.,
31 Nassau Street, New York, July 2, 1934

Memorandum to Mr. Burnett Walker.

RE: CHICAGO & WESTERN INDIANA

In connection with the leadership of this financing, the strongest claim of Brown Harriman & Co. is, of course, the appearance of the National City Company with J. P. Morgan & Co. and First National Bank in the offering of \$16,000,000 First and Refunding Series A 5½s about 1928. In addition, the National City Company managed an offering of Atchison bonds due to the fact that J. P. Morgan & Co. and Guaranty Company had interlocking directors.

The claims of Edward B. Smith & Co. to the leadership of this financing are as follows:

1. Two of the proprietary roads are now Van Sweringen roads:

Erie (Guaranty Company was unable to obtain important interest due to position of First National Bank)

C. & E. I. (During period Messrs. Potter and Swan were directors to represent Mr. Ryan, we insisted on Company financing through Kuhn Loeb & Co. There has been no public financing since acquisition by Van Sweringen interests.)

2. If the Wabash withdraws, the Nickel Plate is interested in acquiring its stock interest whether or not consolidation along lines of 4 party plan effected. In this event Van Sweringen interest will own 3/5ths of stock.

3. Edward B. Smith & Co. has, in my opinion, better than even chance of handling any Atchison financing if J. P. Morgan & Co. does not reenter investment field.

4. National City Company was not consulted by J. P. Morgan & Co. regarding proposed issuance of guaranteed preferred stock about 1930. This proposal was abandoned due to refusal of Canadian National's refusal, through Grand Trunk Western, to assume an obligation issued by a carrier in the United States in perpetuity.

H.D. MOORE

HDM/n

EXHIBIT No. 1731

[From the files of Brown Harriman & Co., Incorporated. Memorandum from Joseph P. Ripley to H. C. Sylvester, Jr., P. V. Davis, and W. Harmon Brown, Jr.]

FEBRUARY 21, 1935.

Memorandum to Mr. H. C. Sylvester, Jr.

Mr. P. V. Davis.

Mr. W. Harmon Brown, Jr.

RE: ATLANTIC COAST LINE

In view of Kidder Peabody having done the nice thing with Lehigh and New England, I think we really ought to invite them into Atlantic Coast Line on the ground floor.

J. P. R.

EXHIBIT No. 1732

[From the files of J. P. Morgan & Co.]

J. P. MORGAN & Co.,
April 30, 1934.

DEAR MR. BUDD:

A few days ago I heard a rumor that one of the Burlington's controlled companies had been discussing the sale of \$1,700,000. principal amount of Chicago

& Western Indiana 5½% bonds, taken by it in payment for some property sold to the Chicago & Western Indiana.

It so happens that we handled the public issue of the Series A 5½% bonds of the Chicago & Western Indiana and during the last two or three months, we have talked with the President of the company with respect to the maturity next year of a note of the Chicago & Western Indiana held by the United States Government or the War Finance Corporation and secured by bonds of the same issue as that taken by the Burlington's subsidiary recently.

I am writing to ask whether you would be good enough to let me know what your plans are with respect to this issue, as our past and possibly future relations with the company's financing gives us a very real interest in the effect that such a sale, if made, might have because of its relation to the company's problems which we have been discussing with the President.

Thanking you in advance for your courtesy in the matter, believe me

Yours very truly,

A. M. ANDERSON.

RALPH BUDD, Esq.,

President, Chicago, Burlington & Quincy Railroad Co., Chicago, Illinois

AMA/CEC

(Stamped across face:) File copy.

EXHIBIT No. 1733

[From the files of J. P. Morgan & Co.]

(Handwritten:) File. July.

(Handwritten:) May 17 & 18, '34.

MEMORANDUM

Mr. A. N. Williams, president of the Chicago and Western Indiana Railroad Company, called today and talked with Mr. Anderson and myself with regard to the 6% Collateral Note amounting to approximately \$6,000,000. and maturing October 7, 1935, held by the U. S. Treasury and secured by \$7,835,000. First and Refunding 5½% Series A Bonds. These First and Refunding 5½% Series A Bonds due September 1, 1962 are now selling at around 101¾ and they recently sold as high as 104. The First and Refunding Series A 5½% Bonds sold as low as 84¾ this year and as low as 66 in 1933, and he naturally is anxious to pay off the 6% Collateral Note held by the U. S. Treasury. He feels that this may be an opportune time to pay off these bonds by sale of the collateral securing same, also to get authority to issue \$1,122,539. additional bonds under a new series to capitalize the expenditures that have been made on the property in the last year or two (approximately \$715,000. of this amount was from the treasury cash of the Chicago and Western Indiana and \$407,000. from the treasury cash of proprietary tenants).

We told him frankly that if it was a question of selling these bonds at the present time we were not sure that we could handle it for him and that we naturally did not wish to deter him in any way from going ahead and permanently financing this maturity at the present time and also replenishing the treasury for expenditures previously made by the sale of additional bonds. He is anxious to do this business through us if possible and it was left that he would proceed to get the authority necessary from the Commission to carry out this plan and then take the matter up with us again. The Series A Bonds securing the Collateral Note held by the U. S. Treasury are guaranteed by the five proprietary roads both as to interest and Sinking Fund. We also told him that he should explore the possibilities of selling to better advantage a new series 5% bond rather than the present Series A 5½% bonds held as collateral. As far as Mr. Williams can determine at the present time, if this financing is accomplished, he sees no need for future financing for a long period ahead as nothing matures prior to the Consolidated 4% Bonds due July 1, 1952.

W. E.

MAY 17, 1934.

P. S.—Mr. Williams called again this morning and showed us a telegram which he received from his Chicago office with regard to the Series A 5½% Bonds. Copy of this telegram is attached.

MAY 18, 1934.

W. E.

EXHIBIT No. 1734

[From the files of Smith, Barney & Co.]

Private Wire Telegram Received

EDWARD B. SMITH & Co.

JUNE 28, 1934.

2 CV Walker & Weisheit 905 Confidential.

Your wire received Coe returned last night and will give you results of very satisfactory conversations with C&EI and Atchison Stop For your confidential information he told Willard of Atchison Corner had asked them to form group and referred to us as probable close associates in business Stop In all previous interviews it was on basis that we were looking at this matter together Stop Planning to get in touch with Van Sweringens office now.

(Handwritten:) Confidential.

MOORE CLEVE.

EXHIBIT No. 1735

[From the files of Smith, Barney & Co. Diary entries by K. W. (Karl Weisheit) and J. W. C. (J. W. Cutler)]

CHICAGO AND WESTERN INDIANA

Preparations all made for issue of \$6,340,000 First and Refunding 5½s, Series A, when market will permit sale of bonds on basis to enable us to purchase them from the company at 100. In order to sell at a lower price the company would have to reopen question with Interstate Commerce Commission. JRS, BW, KW and HDM have been handling matter. Pierre Davis is handling business in Brown Harriman & Co. KW-8/22/34

Thru JPM&Co. syndicate negotiating with Burlington for their \$1,600,000 Series C bonds. Suggested price 98, to sell at 100½. The bonds owned by the railroad will be held for the time being, as they do not wish to sell them below par and are not particularly pressed for money. JWC-10/17/34

After a fully attended meeting at the office, and reviewing the entire situation and discussing it from every angle, we felt that we could not in justice to ourselves or our clients pay 100 for the bonds, to sell at 102½, in spite of the fact that Davis of BH&Co had indicated to JPM&Co. and also to the President of the Company that they might be willing to do so. In view of this JRS placed our position squarely before Anderson of JPM&Co., with all our reasons—net result that business will be put on shelf again for time being, BH&Co acceding to our feeling. JWC-10/13/34

Williams and his Board declined bid of 99, recommended by Mr. Anderson of JPM&Co., to sell bonds at 101 or 101½. Therefore again laid on table. JWC-11/23/34

Transaction completed. KW-2/15/35

EXHIBIT No. 1736

[From the files of J. P. Morgan & Co.]

(Handwritten): Chicago & West Indiana.

Memorandum for Mr. A. M. Anderson:

Referring to Mr. Williams's telegram just received and my answer attached, Chicago and Western Indiana bonds sold as high as 103 yesterday and are now quoted 102½ bid, offered at 102¾. I talked with Sylvester on the telephone and he feels that if present conditions hold they could go ahead on Tuesday and do this business. He said that he had been more bullish than the others but that he would call them together Tuesday morning and thought he might whip them into line. Sylvester would like to buy both the Chicago and Western Indiana bonds and the bonds held by the Burlington and make one offering of both series. He understands definitely that both parties will not sell below 100.

(Initialed:) WE.
W. E.

NOVEMBER 9, 1934.

EXHIBIT No. 1737

[From the files of the Chicago, Burlington & Quincy Railroad Company]

MAY 2, 1934.

DEAR MR. ANDERSON: Replying to your letter of April Thirtieth:

At meeting held today the sale of a block of Chicago & Western Indiana 5½% bonds was authorized, and Mr. Sturgis has been instructed to handle the matter. There were originally \$1,700,000 of these, which constitute the entire issue of Series "C". About \$40,000 were called for the sinking fund, leaving a balance of \$1,660,000.

Prior to today's meeting Mr. Sturgis has been for the last two weeks or more looking into the question of possible sale. I am handing him your letter and I have no doubt you will hear from him soon either by a letter or personal call.

Yours very truly,

(Signed) RALPH BUDD.

A. M. ANDERSON, Esq.,

23 Wall Street, New York City, N. Y.

(Typed on margin of letter:) Actual \$1,700,000

42,000

1,658,000

B-11

CC-Mr. C. I. Sturgis—ENC

Herewith Mr. Anderson's letter. I think it might be best for you to go to New York in order to get this matter cleaned up promptly and advantageously.

RALPH BUDD.

Talked to Mr. Budd about this.

C; I. S. 5/3/34.

EXHIBIT No. 1738

[From the files of the Chicago, Burlington & Quincy Railroad Company. Memorandum by C. I. Sturgis]

[Copy]

JUNE 13, 1934.

MEMORANDUM

Mr. Anderson of JPMorgan & Co. phoned today and said that the crucial date of June 16th was approaching and that it was the opinion of their attorneys that even after that date they would be authorized to sell in one block an issue of bonds belonging to a party other than the company that issued them; he stated that there were two insurance companies whom they had approached, one the Prudential which was not interested, and the other the Metropolitan which might decide to purchase the bonds but that independent of this particular purchase was going to send a man to Chicago to investigate the general terminal situation here. He stated that this might take two or three weeks or even longer.

He said that if they could not sell them in one block, they could probably put us in touch with a number of distributors who would be in position to place the bonds for us directly, in which case they (JPM & Co.) could not charge any commission. I told him in reply to this that there was no immediate hurry about selling the bonds and that either of those steps would be all right so far as we were concerned.

He said the two present questions, apart from the above, were—

1st, whether the bonds had been properly issued, and

2nd, whether the sinking fund would take care of the whole issue by the maturity of the bonds.

The first question, he said, was with their attorneys, and as to the second he had found that the man of the Bankers Trust Co., to whom I had referred in my letter of June 8th (Meyers), did not agree that the sinking fund would retire the bonds at maturity. On this second question he suggested that I send him either our auditor's figures or those of the auditor of the C. & W. I. for JPMorgan & Co. auditor to check with his; and that later he might ask that

one of the auditors go to New York to explain the difference between their figures.

Mr. Anderson reported that the Prudential already had a large block of the C. & W. I. 4s and that the Metropolitan had about \$5,000,000 of the same 4s. This was the end of the talk with Mr. Anderson.

CIS H

B-28

EXHIBIT No. 1739

[From the files of the Chicago & Western Indiana Railroad Company]

FILE MEMORANDUM

First discussion several months ago with Messrs. Ewing and Anderson of J. P. Morgan & Company, who have been our financial advisors for years. We went over very carefully our financial setup, the Government Loan maturing next year, our present bank loans and the necessity for a small amount of working capital. I asked these gentlemen for their suggestions as to the best way to start this matter out.

On my next trip to New York, about ten days later, I again consulted with Messrs. Ewing and Anderson and they suggested that in view of the complexity and intricacy of our corporate setup on these two properties that it would be rather difficult to hock this issue around town as it would result in a corp of investigators swarming on us trying to find out who we are and what we are. Mr. Anderson stated he would give the matter some consideration and that two companies in New York who knew considerable about our two companies, i. e., Brown Harriman & Company and E. B. Smith and Company, would probably be the best to handle this security.

I contacted these two companies at their own offices and had a preliminary discussion with them. They stated that they were interested, would investigate the matter, and we would have a further conference on my next trip East. About a week later I again met these gentlemen. They stated that the best plan they knew of was for one or two reputable houses to underwrite the issue and then market the issue through a large number of retail outlets, probably fifteen or twenty. No price was discussed.

I then sought counsel of personal friends in the Chase National Bank; also Mr. C. T. Jaffray of Minneapolis, Mark W. Potter of New York City, General Dawes of Chicago, and discussed the matter with representatives of J. & W. Seligman & Company and William B. Nichols and Company both of New York City.

Next, I made a trip to Washington with Mr. Barse for a preliminary discussion with the Interstate Commerce Commission. At this discussion we were informed that the best that could be done was 101. I thereupon returned to New York and had several conferences with representatives of Brown Harriman & Company and E. B. Smith and Company, and we started our setup on the basis of 101. They sent engineers and auditors to make a careful check of our property. This took about ten days.

At further conferences in New York it was stated that in their judgment (*J. & W. Seligman & Company (Brown Bros Harriman)* and E. B. Smith and Company) the best that could be obtained from this offer from any one was 100 net.

A. N. Williams.

7-26-34

(Italics are handwritten.)

EXHIBIT No. 1740

[From the files of the Chicago & Western Indiana Railroad Company]

NEW YORK, November 13, 1924.

A. N. WILLIAMS:

One of members of group will not go along in making the issue tomorrow. Mr. Davis is going up to talk with Arthur Anderson of J. P. Morgan & Company therefore there may be 24 hour delay. He leaves it up to you if you wish to come this afternoon or not.

W. R. COE.

2:30 PM

EXHIBIT No. 1741

[From the files of the Chicago & Western Indiana Railroad Company]

[Western Union]

W. EWING,
J. P. MORGAN & Co.,
23 Wall Street, New York City:

CHICAGO, November 9, 1934.

Appreciate if you can talk to Mr. Davis early tomorrow morning. I expect telephone him around 11 a. m. tomorrow to see if any action can be had.

A. N. WILLIAMS.
11:05 A. M.

EXHIBIT No. 1742

[From the files of the Chicago & Western Indiana Railroad Company]

[Western Union]

Received at 427 So. LaSalle Street, Chicago, Ill., Wabash 4321,

1934 Nov. 9, PM 3 44.

A. N. WILLIAMS,
Chicago and Western Indiana R. Co.,
Dearborn Station Chgo.:

Telegram received. Mr. Davis is out of town but will be back tomorrow morning stop. I talked however with H C Sylvester his partner stop My personal feeling is that unless market changes adversely you may be able to close deal Tuesday stop I will be away next week but Arthur Anderson will be here.

WILLIAM EWING.

EXHIBIT No. 1743

[From the files of the Chicago & Western Indiana Railroad Company]

NEW YORK, November 13, 1934.

A. N. WILLIAMS:

I have advised all members of group that Brown Harriman and Company are prepared sign contract with you tomorrow provided our associates in business are willing to join us. I am still waiting for definite word from two of them. I will wire you through our Chicago office as soon as I get definite answer

P. V. DAVIS.
BROWN HARRIMAN.
11:50 AM

EXHIBIT No. 1744

[From the files of the Chicago & Western Indiana Railroad Company]

[Western Union]

CHICAGO, November 14, 1934.

A ANDERSON,
J P MORGAN & Co.,
23 Wall Street, New York City

I asked Mr. Kurrie call on you discuss bond matter Appreciate if you will discuss fully with him

A N WILLIAMS.
9:45 A. M.

EXHIBIT No. 1745

[From the files of the Chicago & Western Indiana Railroad Company]

[Postal Telegraph]

Nov. 14, 1934, 5 49 P. M.,

A. N. WILLIAMS,
President, Chicago & Western Indiana Indiana RR Co., Chgo.:

Wire received. Shall be delighted to see Mr. Kurrie.

A. M. ANDERSON.

EXHIBIT No. 1746

[From the files of the Chicago & Western Indiana Railroad Company]

[Western Union]

CHICAGO, November 19, 1934.

W. EWING,
J. P. MORGAN & COMPANY,
23 Wall Street, New York City:

Appreciate you can get touch with group members this morning. I will telephone you sometime this afternoon. Anxious get line on situation. Report to our directors meeting tomorrow morning.

A. N. WILLIAMS.
10:35 A. M.

EXHIBIT No. 1747

[From the files of the Chicago & Western Indiana Railroad Company. Letter from A. N. Williams to W. Ewing]

DECEMBER 14, 1934.

MY DEAR MR. EWING: I understand from the papers that our bond sale went over very fine. I want to again thank you for your part in it and to say that we deeply appreciate your interest.

I will be in New York on Wednesday and Thursday of next week to close up this matter and I will drop in to say Hello to you.

Very truly yours,

Mr. W. EWING
J. P. Morgan & Company 23 Wall Street New York City, New York.

EXHIBIT No. 1748

[From the files of Blyth & Co., Inc.]

JUNE 17, 1936.

Copy to C. R. Blyth,
E. M. Stevens,
R. Shurtleff.

MEMORANDUM RE: \$26,000,000 LOUISVILLE & NASHVILLE RAILROAD COMPANY FIRST & REFUNDING 3¾% BONDS DUE 2003

Morgan, Stanley & Co. will offer the above mentioned issue probably next week, or possibly the week following.

They will form a sub-underwriting group, and have offered us in that account an interest of \$1,500,000, which we have tentatively accepted.

Harold Stanley explained that, owing to the fact that when J. P. Morgan & Co. withdrew from the investment banking business, the First Boston Corporation, Brown Harriman, and E. B. Smith & Co. had handled some Louisville & Nashville financing, they had been obliged to give them a preferential position over us.

The account will be made up of those three houses and Kuhn Loeb, having \$3,000,000 each, and another group of \$1,500,000 each, which will include (besides ourselves) Lazard Freres, Kidder Peabody, and Lee Higginson.

C. E. MITCHELL.

(Handwritten): Noted. R. O.

EXHIBIT No. 1749

[Memorandum from Investment Banking Section, Monopoly Study, Securities and Exchange Commission to Mr. Alexander]

MEMORANDUM FOR MR. ALEXANDER

On October 30, 1939, a request was made to Mr. Alexander with respect to his ascertaining further facts bearing on the underwriting of certain railroad

issues in 1934 and 1935. Mr. Alexander suggested that in regard to one phase of the request, namely, the basis of selection of underwriters and members of selling groups, that a conference be held in the near future with Mr. George Whitney and Mr. Arthur M. Anderson. In this connection, Mr. Alexander said that, generally speaking, J. P. Morgan & Co. when requested, advised and recommended various firms to be placed on the underwriting list. He added that the basis of J. P. Morgan & Co.'s advice and recommendations, when given, was upon the distributing performance of various firms in similar type of business.

With respect to the foregoing, it is desired to obtain such records as may exist of the advice and recommendations of J. P. Morgan & Co. in this connection and the record on which the past performance was determined.

Mr. Alexander added that examination of particular transactions was the proper way to ascertain the steps that occurred in any particular case, and, therefore, in connection with the foregoing request, and as an aid to J. P. Morgan & Co. in locating material in their files, the following particulars in connection with the railroad financing in question are noted:

(1) TOLEDO AND OHIO CENTRAL

The first mention of the syndicate list for this issue appears, as the complete list, in a letter from Mr. Young of J. P. Morgan & Co. to Mr. Place of The New York Central dated June 13, 1934. No material so far furnished bears upon the formation of this list. It appears further that Mr. Whiting of Whiting, Weeks & Knowles & Co. was advised to communicate with J. P. Morgan & Co. in order to obtain a participation, and the possibility occurs that there may be a memorandum of conference or other communication in J. P. Morgan & Co.'s files bearing on this request. Likewise, Mr. Peck of Adams and Peck had a conference on June 13, 1935, with Mr. Henry Morgan in connection with a possible participation. Furthermore, the selling group list, as sent to Mr. Place by Mr. Young, differs from the final list in that Stone & Webster and Blodget were afterwards included for one hundred bonds. No information heretofore furnished by J. P. Morgan & Co. indicates how this change came about.

(2) NYPANCO RAILROAD COMPANY

It appears that the underwriting of the extension of the Nypanco bonds was discussed with J. P. Morgan & Co. by Mr. Swan of E. B. Smith & Co. as early as September 21, 1934, and that during October, November, and December memoranda on the legal aspects of the problem were prepared by Mr. Meyer for Mr. Anderson. No communications with respect to advice and recommendations from J. P. Morgan & Co. to the Erie Railroad in connection with the division of this underwriting between E. B. Smith & Co. and Brown Harriman & Co., Incorporated, is available. It appears, also, that White Weld & Co. and Kuhn Loeb & Co. both approached J. P. Morgan & Co. for a participation in this underwriting and that J. P. Morgan & Co., in fact, suggested to E. B. Smith & Co. that White Weld be included.

(3) THE LONG DOCK COMPANY

The first mention of the composition of the underwriting syndicate on the extension of the Long Dock Co. bonds is a complete syndicate list dated September 13, 1935. However, from a note of Mr. Meyer to Mr. Ward of Clark Dodge & Co. dated May 7, 1935, it appears that conversations had already been in progress between Mr. Meyer and Mr. Ward. Whether suggestions concerning the make-up of the syndicate list were tendered to Clark Dodge & Co. or the Erie Railroad is not clear from any material heretofore furnished by J. P. Morgan & Co.

(4) ATLANTIC COAST LINE

It appears that the sale of Coast Line bonds was discussed between E. B. Smith & Co. and J. P. Morgan & Co. as early as September 20, 1934, but no correspondence furnished by J. P. Morgan & Co. bears upon any discussion of this matter between J. P. Morgan & Co. and the Atlantic Coast Line Railroad prior to April 15, 1935. In the meantime, it appears that Mr. Weld of White Weld & Co. had asked Mr. Anderson to be included in the underwriting syndicate and that Mr. Whitney had discussed some problem in connection with this issue with Commissioner Mahaffie of the Interstate Commerce Commission.

(5) CHICAGO AND WESTERN INDIANA RAILROAD

A memorandum furnished by J. P. Morgan & Co. states as of February 19, 1934, that Mr. Williams, then President of the Railroad, will call on the firm about the 21st of February. No further reference to this call appears. Another memorandum furnished by J. P. Morgan & Co. dated May 17, 1935, discusses Mr. Williams' visit the previous day, but does not mention discussions of possible members of the underwriting syndicate. Mr. Williams, however, appears to be under the impression that at or about that time such discussion took place. Furthermore, in regard to subsequent difficulties of this issue, it appears that E. B. Smith & Co., and Brown Harriman & Co. discussed various problems in connection with the offering with Mr. Anderson and that Mr. Ewing was in frequent correspondence with Mr. Williams. However, no documentation heretofore furnished by J. P. Morgan & Co. bears on the conferences of Mr. Anderson with the underwriting firms, nor does any correspondence with Mr. Williams heretofore furnished, bear upon the composition of the underwriting lists.

LEGAL OPINIONS

The letter of November 1, 1939, from Mr. Allen Wardwell to Mr. Alexander contains the following language concerning the applicability of Section 21a of the Banking Act of 1933:

"We have reviewed this question from time to time and have had no occasion to change our opinion.

"As you know, we consider it advisable for the firm to follow the existing practice of examining with us the character of any particular transaction that may be under consideration in order that the firm be assured that such transaction falls within the scope of the general opinions which we may have given the firm from time to time."

In this connection, it is to be noted that the only general opinion of counsel furnished by J. P. Morgan & Co. is the opinion dated May 29, 1934, and that no specific opinion nor memorandum of specific discussions has been furnished that bear upon the aspect of the question raised by Mr. Wardwell. Three opinions dated July 22, August 21, and December 14, 1935, have been furnished by J. P. Morgan & Co., but each such opinion deals with legal problems connected with the respective bond issues, but not with the position of J. P. Morgan & Co. under Section 21a of the Banking Act of 1933.

RECOMMENDATIONS TO RAILROADS

Inasmuch as a number of distributing houses with wide experience in railroad finance were not included in the underwriting or selling groups in any of the above issues, it would be desirable to ascertain whether J. P. Morgan & Co. offered any suggestions to the railroads or the underwriters indicating the reasons for confining the business solely to those firms represented on the list.

Dated, Washington, D. C.
November 8, 1939.

EXHIBIT No. 1750

[Letter from J. P. Morgan & Co. to Investment Banking Section, Monopoly Study, Securities & Exchange Commission]

J. P. MORGAN & Co.

Wall St. corner Broad, New York

NEW YORK, November 1, 1939.

PETER R. NEHEMKIS, Jr., Esq.,

*Special Counsel, Monopoly Study, Investment Banking Section,
Securities and Exchange Commission, Washington, D. C.*

DEAR MR. NEHEMKIS: Referring to your telephone request for opinions of counsel, I have found in our files and enclose copies of opinions dated May 29, 1934, July 22, 1935, August 21, 1935, and December 14, 1935.

As a further check, I asked Davis Polk Wardwell Gardiner & Reed to review their records and I enclose a copy of a letter which I have received from Mr. Wardwell.

Yours very truly,

(Signed) HENRY C. ALEXANDER.

Enclosures.

EXHIBIT No. 1751

[From the files of J. P. Morgan & Co.]

JOHN W. DAVIS
FRANK L. POLK
ALLEN WARDWELL
GEORGE H. GARDINER
LANSING P. REED
WILLIAM C. CANNON

HALL PARK McCULLOUGH
J. HOWLAND AUCHINCLOSS
EDWIN S. S. SUNDERLAND
TOM GARRETT
THEODORE KIENDL
MONTGOMERY B. ANGELL

OTIS T. BRADLEY
GEORGE A. BROWNELL
WALTER D. FLETCHER
CARROLL H. BREWSTER
LEIGHTON H. COLEMAN
EDGAR G. CROSSMAN

Cable Address: STETSON

DAVIS POLK WARDWELL GARDINER & REED

(STETSON JENNINGS & RUSSELL)

15 Broad Street, New York

MAY 29, 1934.

Messrs. J. P. MORGAN & Co.,

23 Wall Street, New York, N. Y.

DEAR SIR: We have given you our opinion that under Section 21-a of the Banking Act of 1933 you may continue to remain members of the New York Stock Exchange and execute orders as brokers for your customers on that Exchange without being engaged in the business of issuing, underwriting, selling or distributing, at wholesale or retail, or through syndicate participations, stocks, bonds, debentures, notes or other securities.

We are also of the opinion that you may continue to act as brokers in over-the-counter transactions, that is to say, in buying or selling, for the account of your customers on the open market in the ordinary course of business, securities not listed in any recognized exchange. Certain transactions, however, while purely brokerage transactions, not of the character above listed, would in our opinion involve a definite distribution of securities at wholesale or retail. For example, a company might come to you and ask you to place a block of bonds which it holds in its treasury—these might be bonds of its own or bonds of another company—which bonds you might sell to a selected list of institutions and dealers on a pure commission basis. Although here you would be acting merely as a broker, we would be of the opinion that this would come within the terms of the Act relating to the distribution of securities at wholesale. Nor do we think the situation would be changed if purchasers in turn purchased these bonds through a broker paying the broker a commission for purchasing and you were being paid a commission by the seller for selling, if this transaction were put through pursuant to previous arrangements with the purchasers and the seller for the distribution of these securities.

If you were requested to sell for the account of the seller bonds which were listed on the Stock Exchange, we doubt if the marketing of a large block of

bonds on the New York Stock Exchange or the selling of even a substantial amount of bank stock on the over-the-counter market to brokers would be considered a distribution at retail within the meaning of Section 21.

There is nothing in Section 21 which would prohibit your continuing to act as financial advisors to any company whose securities you have previously marketed or in connection with its security business to perform purely banking functions. For example, let us suppose that New York Central Railroad Company proposed to proceed with further financing along the lines of the last financing done by them. We see no reason why you should not assist in getting together a group of underwriters who would underwrite the issue of convertible bonds of the New York Central (though you, yourselves, of course could not participate in the underwriting); nor do we see any reason why the mechanics of the transaction should not be carried through at your office, namely, having the payments made to you for the account of the New York Central and the securities of the New York Central delivered at your office against such payment. Technically, there would be no reason why you could not be paid a fee for your services in such a transaction. If, however, that fee were merely a payment in disguise of a brokerage commission for effecting the distribution of the securities, we would be of the opinion that the transaction in reality would be a transaction in which you were engaged in the distribution of securities and so would come within the provisions of Section 21. On the other hand, if the number of purchasers of the security is so small that the entire operation cannot be called a "distribution", we believe that it would not be contrary to Section 21 for you to receive a fee. How many purchasers must be involved in order to make the transaction one which involves a "distribution" is not a question to which a numerical answer can be given which will fit all cases. You will recall that the same problem has arisen under Section 2 (11) and Section 4 (1) of the Federal Securities Act. All of the factors of any particular case must be considered, but generally speaking, we should think that if only four or five purchasers were involved (who did not themselves buy with a view to distribution), the transaction would not be regarded as a "distribution".

Very truly yours,

DAVIS, POLK, WARDWELL, GARDINER & REED.

EXHIBIT No. 1752

[From the files of J. P. Morgan & Co.]

JOHN W. DAVIS
FRANK L. POLK
ALLEN WARDWELL
GEORGE H. GARDINER
LANSING P. REED
WILLIAM C. CANNON
HALL PARK McCULLOUGH

J. HOWLAND AUCHINCLOSS
EDWIN S. S. SUNDERLAND
TOM GARRETT
THEODORE KIENDL
MONTGOMERY B. ANGELL
OTIS T. BRADLEY
GEORGE A. BROWNELL

WALTER D. FLETCHER
CARROLL H. BREWSTER
LEIGHTON H. COLEMAN
EDGAR G. CROSSMAN
HENRY CLAY ALEXANDER
RALPH M. CARSON
FREDERICK A. O. SCHWARZ

Cable Address: STETSON

DAVIS POLK WARDWELL GARDINER & REED

(STETSON JENNINGS & RUSSELL)

15 Broad Street, New York

JULY 22, 1935.

The Nypano Railroad Company

Messrs. J. P. MORGAN & Co.,

23 Wall Street, New York, N. Y.

DEAR SIR: In connection with the extension to March 1 1950, of The New York, Pennsylvania and Ohio Railroad Company Prior Lien Mortgage Bonds, previously extended to March 1, 1935, you have furnished us for our examination Bond No. 3667 in the principal amount of \$1,000 to which is attached a duly executed counterpart of the Agreement of March 1, 1935, relating to the extension of such bond and a coupon sheet bearing coupons for semi-annual interest from September 1, 1935 to and including March 1, 1950. There is imprinted upon the bond the following legend:

"This bond is further extended to first of March, 1950, with interest at the rate of 4¼% and on further terms and conditions set forth in attached agreement dated March 1, 1935."

On the reverse panel of such bond is imprinted the following legend:

"Extended to March 1st, 1950, at 4¼%".

To the face of the extension agreement and coupon sheet is affixed a federal documentary stamp for one dollar, cancelled by perforation and by appropriate marking.

We are familiar with the proceedings taken by The Nypano Railroad Company to extend the foregoing bonds, with the terms and provisions of the Agreement of March 1, 1935, and with the letter of instructions to your Company as agent of The Nypano Railroad Company dated February 13, 1935. We are of the opinion that the bond which we have examined has been properly extended in accordance therewith and that the other bonds of this issue upon which are similarly imprinted the legends referred to and to which are similarly attached executed counterparts of the Agreement of March 1, 1935, with documentary stamps annexed and cancelled, and coupon sheets, may be redelivered to the holders who deposited the same with your Company in accordance with the provisions of the letter of instructions to your Company above mentioned.

Very truly yours,

DAVIS POLK WARDWELL GARDINER & REED.

EXHIBIT No. 1753

[From the files of J. P. Morgan & Co.]

JOHN W. DAVIS
FRANK L. POLK
ALLEN WARDWELL
GEORGE H. GARDINER
LANSING P. REED
WILLIAM C. CANNON
HALL PARK McCULLOUGH

J. HOWLAND AUCHINCLOSS
EDWIN S. S. SUNDERLAND
TOM GARRETT
THEODORE KIENDL
MONTGOMERY B. ANGELL
OTIS T. BRADLEY
GEORGE A. BROWNELL

WALTER D. FLETCHER
CARROLL H. BREWSTER
LEIGHTON H. COLEMAN
EDGAR G. CROSSMAN
HENRY CLAY ALEXANDER
RALPH M. CARSON
FREDERICK A. O. SCHWARZ

Cable Address: STETSON

DAVIS POLK WARDWELL GARDINER & REED

(STETSON JENNINGS & RUSSELL)

15 Broad Street, New York

AUGUST 21, 1935.

The Long Dock Company
Extension of Bonds

Mr. JOHN M. MEYER,
*J. P. Morgan & Co., 23 Wall Street,
New York, N. Y.*

DEAR MR. MEYER: I have returned to you the draft forms of papers enclosed with your memorandum to me of August 20 in regard to the proposed extension of The Long Dock Company Consolidated Mortgage bonds, having examined these papers from the standpoint of J. P. Morgan & Co. who are to act as agents of The Long Dock Company in this transaction.

My examination related particularly to the draft letter of transmittal of bonds by bondholders, letter of instructions from The Long Dock Company to J. P. Morgan & Co. and receipt to be issued by The Long Dock Company through J. P. Morgan & Co. as its agents. I find these three papers as well as the remaining papers in satisfactory form from the standpoint of J. P. Morgan & Co. Although you are not directly concerned, I have raised the question that I do not believe any cash payment necessary as consideration for the extension in this case so long as it is clear that the contract of extension (which is to be performed in New York) is made in the State of New York by the affixing of the extension contract and coupon sheet to the bonds and the imprinting of the extension legend thereon. I also raised the question as to whether the reference in the letter between the Company and the bankers to "associates" of the bankers would be satisfactory.

Very truly yours,

J. HOWLAND AUCHINCLOSS.

EXHIBIT No. 1754-1

[From the files of J. P. Morgan & Co.]

JOHN W. DAVIS
FRANK L. POLK
ALLEN WARDWELL
GEORGE H. GARDINER
LANSINO P. REED
WILLIAM C. CANNON
HALL PARK McCULLOUGH

J. HOWLAND AUCHINCLOSS
EDWIN S. S. SUNDERLAND
TOM GARRETT
THEODORE KIENDL
MONTGOMERY B. ANGELL
OTIS T. BRADLEY
GEORGE A. BROWNELL

WALTER D. FLETCHER
CARROLL H. BREWSTER
LEIGHTON H. COLEMAN
EDGAR G. CROSSMAN
HENRY CLAY ALEXANDER
RALPH M. CARSON
FREDERICK A. O. SCHWARZ

Cable Address: STETSON

DAVIS POLK WARDWELL GARDINER & REED

(STETSON JENNINGS & RUSSELL)

15 Broad Street, New York

DECEMBER 14, 1935.

The LONG DOCK COMPANY, Consolidated Mortgage 6% Bonds due October 1, 1935,
Extension of Maturity to October 1, 1950.

Messrs J. P. MORGAN & Co.,
23 Wall Street, New York, N. Y.

DEAR SIRs: On your behalf as agent of The Long Dock Company in regard to the extension of maturity of its Consolidated Mortgage 6% Bonds from October 1, 1935 to October 1, 1950, we have examined copies of the letter of instructions of The Long Dock Company to you dated September 13, 1935, the letter of The Long Dock Company to the holders of said bonds dated September 14, 1935 and the form of extension agreement and of coupon attached to said letter, the form of receipt to be delivered by you as agent to depositing bondholders, and specimen form of extension agreement and of coupon sheet prepared by American Bank Note Company. We understand that the bonds deposited with you as agent of The Long Dock Company under the extension plan have had attached thereto the extension contract and coupon sheet in the form examined by us, and that such bonds are now ready for delivery to the holders of the receipts against the surrender of such receipts.

We are of opinion that it is in order for you to give notice to the registered holders of said receipts that the deposited bonds are now ready for redelivery, and thereafter to redeliver such bonds to the holders of the receipts against the surrender of the receipts.

Very truly yours,

DAVIS POLK WARDWELL GARDINER & REED.

(Handwriting:) Ack: 12/18/25. A. W.

EXHIBIT No. 1754-2

[From the files of J. P. Morgan & Co.]

MEMORANDUM FOR MR. J. HOWLAND AUCHINCLOSS

RE: LONG DOCK COMPANY

Attached herewith please find the following papers:

Group A:

1. Draft letter of transmittal
2. Draft of letter of instructions to J. P. Morgan & Co.
3. Draft of receipt to be issued by Long Dock Company, J. P. Morgan & Co. as their agents

Group B:

1. Draft of letter to bondholders
2. Draft of advertisement
3. Draft of Extension Agreement
4. Draft of contract between Erie Railroad and underwriters
5. Draft of Resolutions of Long Dock and Erie Board of Directors.
6. Draft of application to Interstate Commerce Commission

Group A concerns Messrs. J. P. Morgan & Co. directly as they will act as agent for the Long Dock Company and accept bonds against receipt. Extension Agree-

ment and coupon sheets will be attached to the existing definitives and the bonds then returned to holders of receipts.

Group B includes general papers on which we have proffered general advice to the Erie people. I should appreciate your comments on both Groups.

(Initialed:) J. M. M.
J. M. M.

AUGUST 20, 1935.

EXHIBIT No. 1755

[From the files of J. P. Morgan & Co.]

[Letterhead of]

DAVIS POLK WARDWELL GARDINER & REED

(STETSON JENNINGS & RUSSELL)

15 Broad Street, New York

NOVEMBER 1, 1939.

HENRY C. ALEXANDER, Esq.,

J. P. Morgan & Co., 23 Wall Street, New York.

DEAR HENRY: At your request we have reviewed our files, having in mind the points which you mentioned to me, and find no opinions which would be pertinent to your inquiry other than those of May 20, 1934, July 22, 1935, August 21, 1935, and December 14, 1935. I believe the general opinion of May 20, 1934, adequately covers the point that Section 21 (a) 1 of the Banking Act of 1933 does not prevent your firm from acting as financial advisers to any company, including assistance to that company in getting together a group of underwriters who would underwrite its securities, or from accepting a fee for such services, provided, of course, that you do not extend your activities into the field of distribution. We have reviewed this question from time to time and have had no occasion to change our opinion.

As you know, we consider it advisable for the firm to follow the existing practice of examining with us the character of any particular transaction that may be under consideration in order that the firm be assured that such transaction falls within the scope of the general opinions which we may have given the firm from time to time.

Very truly yours,

ALLEN WARDWELL.

"EXHIBIT No. 1756" appears in Hearings, Part 22, appendix, p. 11795.

"EXHIBIT No. 1757" appears in Hearings, Part 22, appendix, p. 11826.

The following three exhibits are in connection with hearings on the development of the beryllium industry, included in Hearings, Part. 5.

EXHIBIT No. 1758-1

Henderson 1064

THE BRUSH BERYLLIUM COMPANY

Cable address
BRUSH CLEVELAND

3714 Chester Avenue, Cleveland, Ohio

DECEMBER 9, 1939.

Senator JOSEPH C. O'MAHONEY,

Congress of the United States, Washington, D. C.

DEAR SENATOR O'MAHONEY: At the hearing last spring on the Beryllium Industry I had the privilege of testifying before your committee at which you presided.

You may recall that on the last day of the two day hearing, the committee intended to adjourn its hearings early because other use of the room was intended for the evening. Nevertheless after my last testimony, the hearing was prolonged so that the president of our competing company might make a

very considerable final statement. No opportunity was afforded me to make answer to certain statements which seemed to be objectionable and prejudicial.

Consequently under date of May 17th I submitted additional testimony and was advised by Mr. Cox under date of May 22nd that this testimony had been transmitted to the Executive Secretary of the T. N. E. C. with a recommendation that the letter and enclosures be introduced bodily into the record.

Nothing further was heard of this additional testimony until in response to our inquiries, we were advised under date of October 3rd by Mr. Wm. A. Hefflin that the testimony was not included in the record "because of the controversial nature of the material."

Please permit me to assure you that the metallurgical facts submitted are not controversial and that the preceding testimony offered by our competitor is in our minds controversial and that our interests are prejudiced, unless our position is simultaneously made clear.

I believe that this material, a copy of which is enclosed, should have been included and should even now be made a part of the record.

I would value your comments and appreciate any action which you might take on our behalf.

Sincerely yours,

C. B. SAWYER, *President.*

CBS: CN
encl.

EXHIBIT No. 1758-2

[Document accompanying Exhibit No. 1758-1]

MAY 17, 1939.

Mr. HUGH B. COX,

Special Assistant to the Attorney General,

Department of Justice, Washington, D. C.

DEAR MR. COX: This refers to the hearing on the Beryllium Industry before the Temporary National Economic Committee.

During the testimony you asked if I would object to your introducing, bodily, into the record a statement regarding the alleged infringement of Gahagan's patent by our company. This statement was to be returned to you at some later date and I, herewith, enclose it for you to introduce, bodily, into the record. This statement is referred to on page 235, third column of the printed record. It is dated December 28, 1937.

Certain stenographic errors in the printed record of my testimony should be corrected and I have enumerated these here below:

Page 233, 15th line.—This sentence should read "In other words because of the wide coverage of this patent, we may find that we are infringing".

Page 233, middle column, line 45.—Change "rat" to "bath".

Page 233, middle column, 14th line from sub-title Beryllium Patents.—Change "British Company" to "Brush Company".

Page 234, 3rd column, 10th line.—This sentence should read as follows: "There has been some confusion because the Brush Foundation at Cleveland is endowed for the purpose of medical research, etc." (Not "metal" research)

Page 235.—My last testimony in the 3rd column should read: "No, we haven't had that. I suggested it once or twice. No need for action having appeared, we didn't go further with it."

In the way of added facts which appear to me to be pertinent and necessary to the understanding of the facts presented to the committee, I present the following:

(1) A chart designed to amplify exhibit No. 476 appearing on page 180. If it is proper to submit the tensile strength of Beryllium Nickel in the heat-treated condition, it is also proper to incorporate in the chart the tensile strength of heat-treated alloy steels. When this is done, as in the enclosed chart, there may appear two standard well known S. A. E. steels which in the heat-treated condition exceed the strength of heat-treated Beryllium Nickel. These should be included in order to give one a sense of proportion.

(2) On page 180, first column, about the middle, it is stated by the witness that when Beryllium Copper safety tools are used in place of steel tools around oil refineries, gas plants and aeroplane hangers "there can be no explosion from that tool, no spark from that tool". While the above quoted statement is probably strictly accurate, it is nevertheless now understood to be a fact that when a Beryllium-Copper tool is used on steel, a spark may proceed

from the steel. Since Beryllium Copper tools are commonly used on steel, this liability of sparking remains as an ever present fact. The likelihood of a spark is enhanced whenever the steel is warm and also whenever it is rusty. To produce a spark from steel, the Beryllium Copper tool must be harder than the steel against which it is used. Note that on page 211, middle column, Mr. Randall in speaking of non-sparking tools, states that they should be called safety tools rather than non-sparking. It is a fact that at one time the American Brass Company on discovering the facts set out above, regarding sparks from Beryllium Copper tools when used on steel, recalled all of their catalogues and subsequently deleted all reference to "non-sparking tools". Later Mr. Randall attached stickers to his catalogues and notified his customers that under certain conditions Beryllium Copper tools are not non-sparking. I believe that this circumstance should be recognized by those interested in promoting the Beryllium Copper industry.

On page 182, the middle column, Mr. Gahagan states that he started to work in 1929. This checks with his statement on page 179, first column, that his company first went into the business about 10 years ago. Now it is a fact that U. S. patent No. 1685570, taken out by the Siemens-Halske Company on the subject of Heat-treating Beryllium Nickel Alloys, was issued in this country September 25, 1928. It is also a fact that on March 9, 1929, the Siemens-Halske Company published in Germany their work on beryllium, describing there at great length the precipitation hardening of beryllium copper. The Siemens-Halske publication has some information also on Beryllium Nickel and Beryllium Iron. Moreover, the British patent on the heat-treatment of Beryllium Copper was issued on March 15, 1928. It is hard to understand, in view of these facts, how Mr. Gahagan and Mr. J. Kent Smith, the British Metallurgist, as stated on page 179 of the verbatim testimony, could themselves have discovered the hardening effect of beryllium when added in small quantities to copper, nickel and iron, unless they grossly neglected the literature. Their discovery of the hardening effects of beryllium apparently took place after they had already worked two years on beryllium and aluminum alloys subsequent to commencing their efforts in 1929.

On page 176, first column, Mr. Gahagan states that only three elements in the world are lighter than beryllium and he must, of course, be referring to their atomic weights. Actually the following metals have lower densities than that of beryllium: Lithium, sodium, potassium, rubidium, magnesium and calcium.

On page 181, first column, it is stated that beryllium copper and beryllium nickel still stand 15 or 20 billion bends, whereas a phosphor bronze spring in a similar use, will go only 3 or 400,000 times before it breaks. It is, however, an engineering fact that so long as you do not stress a metallic material beyond its so-called endurance limit, it will not break from fatigue no matter how many billions of times you bend it. Consequently a phosphor bronze spring might show just as many alternations, that is as long a life, as a beryllium copper spring provided you did not stress the phosphor bronze spring beyond its endurance limit. It is a fact, however, that the endurance limit of beryllium copper is about 40,000 lbs. per square inch against 27,000 lbs. for phosphor bronze. Beryllium copper may, therefore, be expected to exhibit freedom from fatigue at stresses forty-eight percent higher than possible for phosphor bronze.

Since Mr. Gahagan has had an opportunity to tell the committee at length about his initial relations with the American Brass Co., I think that the same opportunity should have been accorded to me. Since no such opportunity was made available, I am taking the next best course and writing to the committee for its record.

My earliest correspondence with the American Brass Co., is missing and I believe it is in the hands of the Department of Justice. I believe that there were several exchanges of correspondence culminating finally in a visit by me to Waterbury on July 14, 1933. Mr. Bassett, the very eminent metallurgist of the American Brass Co., and then known as "Dean of American Metallurgists", personally discussed the matter with me at considerable length and took me to lunch at the Waterbury Club. At that time we were not making any beryllium copper master alloy, but were producing beryllium oxide. Mr. Bassett's interest in beryllium copper was of long standing as proved by his article published in the year 1927 in the American Institute of Min. and Met. Engineers.

Mr. Bassett got into touch with us because he wanted beryllium copper, and failing that, he wanted beryllium oxide to use in experiments directed at the production of beryllium to be used in copper. He was evidently determined to

obtain another source. Because of some delay on our part he thought we were reluctant to furnish him with beryllium oxide and bought 2 lbs. of it from Foote Mineral. Later, under date of September 6, 1933, we supplied Mr. Bassett with 2 lbs. of our beryllium oxide, without charge. We also discussed the process which Mr. Bassett intended to use and I gave him all the information which we had available.

Mr. Bassett at that time expressed dissatisfaction with his source of beryllium copper (Mr. Gahagan's company) and denied the current rumor that Anaconda had stock in Mr. Gahagan's company.

Mr. Bassett and his assistant Mr. Davis, as I subsequently learned, were not able to make the process operate which I had discussed with him. Subsequently on the strength of Mr. Bassett's representation of the American Brass Company's interest in another source of beryllium copper, we succeeded in introducing modifications of the process which I had discussed with Mr. Bassett and these modifications were responsible for the success which we ultimately achieved in this process.

At the time of my visit with Mr. Bassett, he indicated that when the prices of beryllium got to be only six times as great as that of tin, the use of tin in bronze would be largely replaced by the use of beryllium. Mr. Bassett evidently felt that he had cause to anticipate such a price ultimately and disappointment over the failure to realize this expectation, or even to make progress towards it, probably accounts for the American Brass Company's manifested uncertainty about the future of the beryllium copper business. Such progress as our company has been able to make towards lower prices for beryllium, together with our prompt deliveries and reliable analyses, have, I feel sure, been largely responsible for keeping the American Brass Co., in the business of producing beryllium copper mill forms.

It remains a fact that the American Brass Company's cost of production has been considerably higher throughout than indicated by Mr. Bassett's early estimates, so that their prices have had to increase. We hope and believe that our new price for the master alloy will be very helpful to them.

The essential feature of our initial contacts with the American Brass Co., is that Mr. Bassett himself, with his impeccable reputation, was at this time actively seeking an additional source of supply of beryllium copper and that he must, therefore, almost from the very first have experienced dissatisfaction with Mr. Gahagan's company. There was no change in attitude towards Mr. Gahagan's company after the death of Mr. Bassett. They were simply carrying out policies which he had already indicated and making the best of their disappointment over the costs of the new venture.

Regarding Mr. Gahagan's statements on page 238 of the printed testimony, I feel obliged again to emphasize that the Brush Foundation exists only for medical research and has its offices in the Western Reserve Medical School two miles removed from our offices. The Brush Foundation is in no way connected with the Brush Laboratories Company. On the other hand, I am delighted to note that Mr. Gahagan has "no thought of trying to create a monopoly", as I and others have had the other impression very strongly. I cannot agree that at the time of his visit to us he made any offer to license the use of his patents and certainly any such license fee as \$5.00 per pound of beryllium as testified to by Mr. Judd, is an impossible sum to pay. Mr. Gahagan at the time of his visit did suggest that we confine our efforts to the chemical field. I did not agree to this as our company has from the first intended to get into the metal business. We have felt that no metal business could be built on an oxide process which was not entirely satisfactory, and our ability to make progress with our costs has been ample justification for this policy. I did tell Mr. Gahagan that we expected to continue our efforts in the oxide and chemical field and we have done so. I never told him that we were not planning to enter the metal field.

Mr. Gahagan's offer to purchase metal patents from us could hardly be construed as encouraging competition in the production of metal by us, and as a matter of fact I do not recall any such offer at the time of his visit.

Finally, again referring to Mr. Gahagan's testimony on page 238, my comments on so-called "paper patents" as defined by me in my testimony, cannot be construed as indicating that the German patent on beryllium nickel is inoperative. It does seem to me that the coverage afforded by the claims therein, is too wide for the relatively meager disclosure.

In conclusion the U. S. beryllium copper heat treatment patent #1,975,113 taken out by the Germans, Masing and Dahl, under which Mr. Gahagan expects

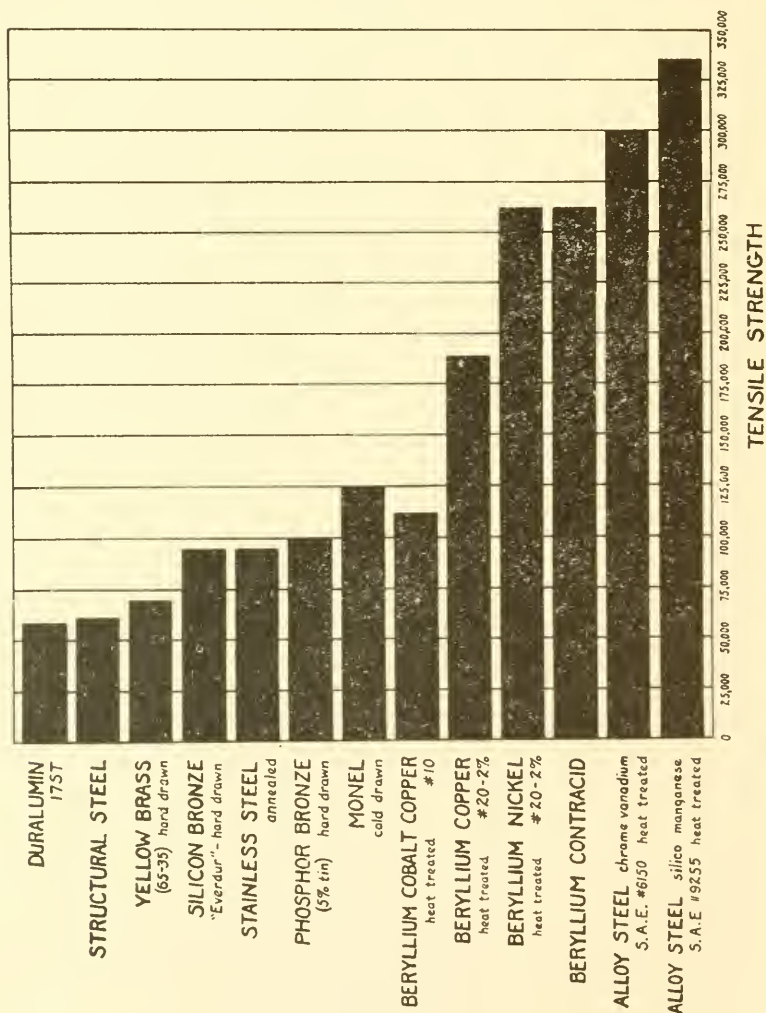
to have "practically complete control of the industry" (which is now practically entirely concerned with beryllium copper) once he "gets finally to the Supreme Court" was in interference in the U. S. Patent Office with U. S. beryllium copper alloy patent #1,893,984 and heat treatment patent #1,990,168 taken out by M. G. Corson under which my Company is licensed. The interference terminated favorably to the Corson patent under which we are licensed and it is hard to see how Mr. Gahagan can extend the field granted under the Masing and Dahl patent to cover the field with nickel additions in which we operate.

Very truly yours,

C. B. SAWYER

CBS:CN
encl.

EXHIBIT No. 1758-3



from the firm of Morgan, Stanley & Co., Incorporated.

[illegible]

[illegible][illegible]

"EXHIBIT No. 1759-1" appears in Hearings, Part 22, appendix, p. 11797.

"EXHIBIT No. 1759-2" appears in Hearings, Part 22, appendix, p. 11798.

"EXHIBIT No. 1760-1," introduced on p. 12049, is on file with the Committee.

"EXHIBIT No. 1760-2," introduced on p. 12049, is on file with the Committee.

"EXHIBIT No. 1760-3," introduced on p. 12049, is on file with the Committee.

"EXHIBIT No. 1760-4," introduced on p. 12049, is on file with the Committee.

EXHIBIT No. 1761

[Letter from Morgan Stanley & Co. to Investment Banking Section, Monopoly Study,
Securities & Exchange Commission]

MORGAN STANLEY & CO. INCORPORATED

Two Wall Street, New York

NEW YORK, November 27, 1939.

PETER R. NEHEMKIS, Jr., Esq.,

*Special Counsel, Investment Banking Section, Monopoly Study,
Securities and Exchange Commission, Washington, D. C.*

DEAR MR. NEHEMKIS: I have your letter of November 17 1939 requesting further information as to Item 2 in your questionnaire of March 6, 1939.

I am sorry that any information is lacking as we understood we had given you all the information you needed in response to this item. At the time of the conference mentioned by you, I showed you a list of the common and preferred stockholders of Morgan Stanley & Co. Incorporated. We explained to you that we preferred not listing the number of shares held by each common stockholder and our reasons why, but told you that no one stockholder had more than 20% of the common stock and that three persons, namely, William Ewing, E. S. Morgan and myself each held 20% of the stock and that the remaining stock was divided among the other names shown on the list. We understood that you were satisfied with the sufficiency of this information as to the common stock; you said, however, that you would like a list of the preferred stockholders, and a list of those of record as of March 24, 1939, was furnished you on that date.

Consequently, I trust that this letter and the enclosures herewith will give you a record of all the information you need. The enclosures are:

The names of the common stockholders of this Company at the time of its incorporation and as of August 31, 1939, the end of our last fiscal year.

Preferred stockholders of record as of the same dates.

Sincerely yours,

HAROLD STANLEY.

Enclosures

"EXHIBITS Nos. 1762 and 1763" face this page.

Morgan Stanley & Co. Incorporated—Common Stockholders of Record as at August 31, 1939

Sumner B. Emerson	Alfred Shriver
William Ewing	Harold Stanley
Perry E. Hall	Edward H. York, Jr.
Allen Northey Jones	John M. Young
Henry S. Morgan	

Morgan Stanley & Co. Incorporated—Preferred Stockholders of Record as at September 16, 1935

William Ewing	Harold Stanley
Perry E. Hall	Edward H. York, Jr.
Allen Northey Jones	John M. Young
Henry S. Morgan	

Morgan Stanley & Co. Incorporated—Preferred Stockholders of Record as at August 31, 1939

	<i>No. of Shares</i>
Arthur M. Anderson	1,000
Gaspar G. Bacon and George Whitney, Trustees Under Deed of Trust Dated November 13, 1914	1,700
Robert L. Bacon and Gaspar G. Bacon, as Trustees for Martha B. Whitney	1,700
Francis D. Bartow	1,000
William Ewing	1,500
Allen Northey Jones	200
Thomas W. Lamont	19,500
Russell C. Leffingwell	3,400
H. Gates Lloyd, Jr.	850
H. Gates Lloyd, Jr., and Charles D. Dickey, Trustees for Richard W. Lloyd, Under the Will of Horatio G. Lloyd, Deceased	850
Richard W. Lloyd	850
Richard W. Lloyd and Charles D. Dickey, Trustees for H. Gates Lloyd, Jr., under the Will of Horatio G. Lloyd, Deceased	850
Henry S. Morgan	9,800
J. P. Morgan	3,000
Junius S. Morgan	2,800
Harold Stanley	1,000
Charles Steele (Deceased)	20,000

Morgan Stanley & Co. Incorporated—Preferred Stockholders of Record as at September 16, 1935

	<i>No. of Shares</i>
Arthur M. Anderson	1,000
Francis D. Bartow	1,000
William Ewing	1,500
Thomas W. Lamont	21,000
Russell C. Leffingwell	3,400
Horatio G. Lloyd	3,400
Henry S. Morgan	2,500
J. P. Morgan	10,000
Junius S. Morgan	2,800
Charles Steele	20,000
George Whitney	3,400

EXHIBIT No. 1764-1

Utility issues managed or co-managed by Morgan Stanley & Co. Incorporated, September 16, 1935-June 30, 1939

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Date of Offering Prospectus	Title of Issue	Total Amount of Issue Man- aged	Amount of Morgan Stanley & Co.'s Under- writing Par- ticipation	Bankers' Gross Com- missions	Morgan Stanley & Co.'s Nat- ional Agent's Com- pensation	Morgan Stanley & Co.'s Gross Profit Before Syndicate Expenses	Morgan Stanley & Co.'s Gross Profit After Syndicate Ex- penses but Be- fore Office Expenses, Taxes, Overhead & Return on Capital
11/25/35-----	Consolidated Edison Co. of New York, Inc., and Subsidiaries:	\$25,000,000	\$9,350,000	\$500,000	\$83,750	\$175,562	\$175,312
2/27/36-----	N. Y. & Queens Elec. Li. & Pwr. Co., 3½% due 1965-----	55,000,000	15,000,000	1,100,000	206,250	337,500	327,405
4/9/36-----	N. Y. Edison Co., Inc., 3¼% due 1965-----	25,000,000	7,500,000	612,500	87,500	153,125	148,888
4/9/36-----	Consolidated Edison Co. of N. Y., 3¼% due 1946-----	35,000,000	7,500,000	700,000	131,250	196,875	192,638
5/25/36-----	Consolidated Edison Co. of N. Y., 3½% due 1950-----	55,000,000	15,000,000	1,100,000	206,250	337,500	326,880
7/24/36-----	Brooklyn Edison Co., Inc., 3¼% due 1966-----	30,000,000	8,000,000	600,000	(1)	220,000	200,445
7/25/37-----	N. Y. Edison Co., Inc., 3¼% due 1966-----	25,000,000	8,000,000	500,000	93,750	163,750	142,084
1/13/38-----	Westchester Lighting Co., 3½% due 1967-----	30,000,000	6,255,000	600,000	112,500	167,494	153,579
4/21/38-----	Consolidated Edison Co. of N. Y., 3½% due 1958-----	60,000,000	9,000,000	1,650,000	150,000	217,500	203,410
8/12/38-----	Consolidated Edison Co. of N. Y., 3½% due 1948-----	27,982,000	5,666,000	559,640	104,932	154,510	140,105
	N. Y. Steam Corp., 3½% due 1963-----						
	Sub-totals (Con. Edison)-----	377,982,000	91,301,000	7,322,140	1,186,182	2,123,816	2,010,746
9/21/35-----	Commonwealth & Southern Corp.:	29,586,000	5,711,000	383,440	23,965	66,797	60,575
11/20/35-----	Consumers Power Co., 3½% due 1965-----	21,981,750	8,731,000	1,099,088	82,431	180,655	163,012
3/16/36-----	Ohio Edison Co., 4% due 1965-----	13,589,250	2,914,000	191,516	13,459	42,609	36,130
3/19/36-----	Central Illinois Light Co., 3½% due 1970-----	27,915,000	11,165,000	1,116,600	104,681	202,375	195,742
12/3/36-----	Consumers Power Co., 3½% due 1966-----	6,000,000	3,750,000	240,000	22,500	55,312	52,740
12/30/36-----	Consumers Power Co., 3½% due 1972-----	13,417,000	5,692,000	536,680	50,313	94,866	91,964
9/29/37-----	Ohio Edison Co., 4% due 1967-----	4,250,000	2,200,000	191,250	15,937	35,187	28,115
1/19/38-----	Consumers Power Co., 3½% due 1967-----	4,500,000	2,125,000	180,000	16,875	35,468	30,666
12/23/38-----	Consumers Power Co., 3½% due 1966-----	5,084,000	2,234,000	203,360	19,065	38,612	33,801
	Sub-totals (Comm. & So.)-----	96,323,000	43,922,000	4,111,934	349,226	751,873	692,545

See footnotes at end of table.

Utility issues managed or co-managed by Morgan Stanley & Co. Incorporated, September 16, 1935-June 30, 1939—Continued
 [Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Date of Offering Prospectus	Title of Issue	Total Amount of Issue Managed	Amount of Morgan Stanley & Co.'s Underwriting Participation	Bankers' Gross Commissions	Morgan Stanley & Co.'s Manager's Compensation	Morgan Stanley & Co.'s Gross Profit Before Syndicate Expenses	Morgan Stanley & Co.'s Gross Profit After Syndicate Expenses but Before Office Expenses, Taxes, Overhead & Return on Capital
6/24/36	Niagara Hudson Power Corp.:						
11/2/36	Niagara Falls Power Co., 3½% due 1966	\$32,493,000	\$8,743,000	\$649,860	\$121,848	\$198,350	\$190,988
6/23/37	Central Hudson Gas & Elec. Corp., 4½% Cum. Pfd.	340,400	340,400	8,510	-----	3,404	2,930
6/23/37	Buffalo Niagara Elec. Corp., 3½% due 1967	17,029,000	4,654,000	340,580	63,858	104,581	88,959
6/23/37	Buffalo Niagara Elec. Corp., Ser. Deb. due 1938-1952	3,420,000	945,000	42,700	8,550	14,456	12,158
10/7/37	Central New York Power Corp., 3½% due 1962	48,364,000	10,064,000	967,280	181,865	209,425	230,826
	Sub-totals (Niag. Hudson)	101,646,400	24,746,400	2,008,980	375,621	590,216	545,861
10/14/35	Columbia Gas & Electric Corp.:						
8/23/36	Dayton Power and Light Co., 3½% due 1960	20,000,000	5,000,000	450,000	75,000	112,500	112,499
6/3/37	Cincinnati Gas & Elec. Co., 3½% due 1966	35,000,000	10,000,000	700,000	131,250	218,750	208,250
	Cincinnati Gas & Elec. Co., 3½% due 1967	10,000,000	2,855,000	200,000	37,500	62,481	54,630
	Sub-totals (Col. G. & E.)	65,000,000	17,855,000	1,350,000	243,750	393,731	375,379
3/11/37	United Gas Improvement Co.:						
	Philadelphia Electric Co., 3½% due 1967	130,000,000	18,000,000	2,600,000	487,500	642,727	622,711
	Sub-totals (U. G. I.)	130,000,000	18,000,000	2,600,000	487,500	642,727	622,711
8/11/38	Public Service Corp. of N. J.:						
	Public Service Electric & Gas Co., 3¼% due 1968	2 5,000,000	3,125,000	200,000	18,750	46,093	38,203
	Sub-totals (P. S. Corp. of N. J.)	5,000,000	3,125,000	200,000	18,750	46,093	38,203
7/22/36	Indianapolis Water Co.:						
	Indianapolis Water Co., 3½% due 1966	13,827,000	4,914,000	276,540	51,851	94,849	90,171
	GRAND TOTALS	789,778,400	204,863,400	17,860,594	2,712,880	4,643,305	4,375,616

¹ Issue subunderwritten. ² In those issues in which there were co-managers, the amount of the issue underwritten was divided equally among the co-managers.

Source: Data supplied by Morgan Stanley & Co. Incorporated.

Industrial and railroad issues managed or co-managed by Morgan Stanley & Co. Incorporated, September 16, 1935-June 30, 1939

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Date of Offering Prospectus	Title of Issue	Total Amount of Issue Man- aged	Amount of Morgan Stanley & Co.'s Under- writing Part- icipation	Bankers' Gross Com- missions	Morgan Stanley & Co.'s Man- ager's Com- pensation	Morgan Stanley & Co.'s Gross Profit Before Syndicate Expenses	Morgan Stanley & Co.'s Gross Profit After Syndicate Ex- penses at Be- fore Office Expenses, Taxes, Overhead & Return on Capital
3/23/36	Louisville & Nashville R. R. Co., 4% due 2003	\$9,292,000	\$4,792,000	\$185,840	(1)	\$59,170	\$59,170
4/3/36	N. Y. Central Railroad Co., Ser. due 1937-41	18,000,000	8,180,000	37,500	\$14,775	18,750	17,478
4/6/36	N. Y. Central Railroad Co., 3 1/2% due 1946	40,000,000	8,300,000	700,000	100,000	163,750	151,828
4/30/36	Chesapeake & Ohio R. R. 3 1/2% due 1996	40,362,000	10,362,000	807,280	131,358	242,023	212,888
5/1/36	Cincinnati Union Terminal Co., 3 1/2% due 1971	12,000,000	6,500,000	480,000	(3)	116,875	129,070
5/22/36	Chicago & Western Indiana R. R., 4 1/4% due 1962	22,727,000	7,277,000	434,540	85,226	148,900	132,719
5/27/36	Standard Oil Co. (N. J.), 3% due 1961	36,000,000	9,000,000	600,000	112,500	191,250	168,558
6/18/36	Crane Co., 3 1/2% due 1951	12,000,000	6,000,000	300,000	45,000	112,500	96,307
6/25/36	Louisville & Nashville R. R. Co., 3 1/4% due 2013 E	26,000,000	8,000,000	520,000	(3)	190,000	169,280
7/14/36	Chesapeake & Ohio Rwy. Co., Ser. due 1937-46	15,300,000	3,600,000	153,000	38,250	51,750	49,212
7/30/36	Chesapeake & Ohio Rwy. Co., 3 1/2% due 1996	29,500,000	6,850,000	590,000	110,625	170,562	158,402
8/20/36	General Motors Acceptance Corp., 3% due 1946	50,000,000	7,500,000	750,000	187,500	234,375	226,800
8/20/36	General Motors Acceptance Corp., 3 1/4% due 1951	50,000,000	7,500,000	750,000	187,500	243,750	236,175
1/14/37	Great Northern Rwy. Co., 3 1/4% due 1967 I	50,000,000	8,000,000	1,000,000	(1)	257,500	239,925
2/15/37	Johns-Manville Corp., Common stock (no par)	10,000,000	3,000,000	150,000	87,500	74,500	74,500
6/24/37	Joane Co., 5% Cum. Conv. Pfd. Shares (\$100 par)	19,280,300	4,820,075	385,600	72,301	160,808	153,749
6/1/37	Phelps Dodge Corp., Conv. 3 1/2% Deb. due 1952	20,285,000	5,071,250	304,275	50,712	116,590	116,590
6/25/37	Standard Brands Inc., \$1.50 Cum. Pfd. Stock (no par)	20,000,000	4,500,000	550,000	75,000	123,625	103,425
6/30/37	E. I. du Pont de Nemours & Co., Pfd. Stk. \$4.50 Cum	50,000,000	7,000,000	1,250,000	187,500	266,250	242,974
6/30/38	Duluth Missabe & Iron Range Rwy. Co., 3 1/2% due 1962	28,000,000	5,600,000	560,000	(1)	154,000	141,597
6/2/38	United States Steel Corp., 3 1/4% due 1948	100,000,000	12,000,000	1,750,000	250,000	340,000	318,856
7/7/38	Standard Oil Co. (N. J.), Ser. notes due 1943-47	31,000,000	4,410,000	387,500	77,500	105,062	98,237
7/7/38	Standard Oil Co. (N. J.), 2 1/4% due 1953	50,000,000	7,090,000	875,000	187,500	240,675	229,075
12/2/38	Continental Oil Co. (N. J.), 2 1/4% due 1948 Conv. Deb.	21,071,600	3,371,456	371,456	52,679	104,902	100,253
12/22/38	Railway Express Agency, Inc., Ser. notes due 1939-48	8,000,000	8,000,000	180,000	90,037	156,034	33,296
4/3/39	Eastman Kodak Co., Common Stock (no par)	28,699,230	4,878,869	422,048	2,113,463	4,097,318	150,161
	TOTALS	788,517,130	166,802,650	14,563,623	2,113,463	4,097,318	3,786,565

¹ Issue subunderwritten.² In those issues in which there were co-managers, the amount of the issue underwritten was divided equally among the co-managers.

Source: Data supplied by Morgan Stanley & Co. Incorporated.

EXHIBIT No. 1765

[From the files of J. P. Morgan & Co. Letter from Thomas S. Lamont to Lansing P. Reed]

(Handwritten:) United Corpn.

J. P. MORGAN & Co.,
January 2, 1929.

DEAR LANSING: At Harold Stanley's suggestion, I am enclosing a batch of advertising circulars regarding various investment trusts. He suggested that I call to your particular attention the Utility Equities Corporation and especially the first paragraph thereof which I have marked. In this connection the names of two other investment trusts occurred to me, the purposes of which are in a way similar to the one proposed, in that they make little if any pretense of diversification, and their purpose is obviously to insure continued control by the bankers (Lee, Higginson & Co.), and their clients. Those are the Swedish American Investment Corporation and the Solvay American Investment Corporation. In the circular advertising the sale of their fixed obligations to the public, no mention is made of diversification.

Sincerely yours,

LANSING P. REED, ESQ.,
15 Broad Street, New York City.

Enclosures
TSL/MK
(Initialed:) TSL. MK.

"EXHIBIT No. 1766-1", introduced on p. 12071, is on file with the Committee.

"EXHIBIT No. 1766-2", introduced on p. 12071, is on file with the Committee.

EXHIBIT No. 1766-3

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

	Approximate percentage of capital in J. P. Morgan & Co. ¹	Approximate percentage of Morgan Stanley & Co., Incorporated, preferred stock in comparison with total held by Morgan partners and their assignees ²		Approximate percentage of capital in J. P. Morgan & Co. ¹	Approximate percentage of Morgan Stanley & Co., Incorporated, preferred stock in comparison with total held by Morgan partners and their assignees ²
Charles Steele (deceased).....	36.6	34.8	H. P. Davison.....	1.2	-----
Thomas W. Lamont.....	34.2	34.0	Charles D. Dickey.....	.9	-----
J. P. Morgan.....	9.1	5.2	Thomas S. Lamont.....	.6	-----
R. C. Leffingwell.....	6.1	5.9	Edward Hopkinson, Jr.....	(3)	-----
F. D. Bartow.....	2.9	1.7	Arthur E. Newbold.....	(2)	-----
J. S. Morgan.....	2.2	4.9	Edward Starr, Jr.....	(1)	-----
A. M. Anderson.....	1.9	1.7	H. Gates Lloyd, Jr.....	(1)	2.9
George Whitney.....	1.9	-----			

¹ As shown by the 1938 partnership income tax returns, 2% was paid to partners who died in that year.
² I. e. 70,000 shares less 12,500 held by officers of Morgan Stanley & Co., Inc., as of 8/31/39. 8.8% is held by assignees of partners.

³ Interest debit.

⁴ Less than one tenth of one percent.

⁵ Acquired under the will of Horatio G. Lloyd who had subscribed for approximately 4.8% of the original issue, and at the time received approximately 4.9% of the income of J. P. Morgan & Co.

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Relative participations in utility issues managed or co-managed by Morgan Stanley & Company Incorporated, 1935-1939 participations of the principal underwriters in relation to the participation of Morgan Stanley & Company Incorporated Schedule B: Issues other than those of Consolidated Edison Co. of New York, Inc. and its subsidiaries.

Date of Offering Prospectus	Issue	Amount	Morgan Stanley & Co. Inc.	Bonbright & Co.	Schoellkopf, Hutton & Pomeroy, Inc.	Brown, Hartman & Co.	The First Boston Corporation	Smith, Barney & Co. (E. B. Smith & Co.)	E. W. Clark & Co.	W. E. Hutton & Co.	Mellon Securities Corp.	Lehman Brothers	Lee, Higginson Corp.	Coffin & Burr, Inc.	Kidder, Peabody & Co.	(Gore, Frazee & Co.)	Lazard Freres & Co.	Byth & Co., Inc.	Stone & Webster and Blodgett, Inc.	White, Weld & Co.	J. & W. Seligman & Co.	Kuhn, Loeb & Co.
9/21/35	Commonwealth & Southern Corp.:																					
3/19/36	Consumers Power Co. 3½s of 1935	\$19,172,000	100.0	100.0	—	30.6	35.0	26.2	17.5	—	—	17.5	—	—	8.7	—	—	—	—	—	—	—
12/3/36	Consumers Power Co. 3½s of 1935	55,830,000	100.0	100.0	9.0	26.9	26.9	26.9	26.9	—	—	9.0	—	—	9.0	—	—	—	—	—	—	—
12/3/36	Consumers Power Co. 3½s of 1935	12,000,000	100.0	100.0	—	40.0	40.0	40.0	40.0	—	—	—	—	—	—	—	—	—	—	—	—	—
1/19/38	Consumers Power Co. 3½s of 1935	9,000,000	100.0	100.0	—	47.0	47.0	35.2	35.2	—	—	—	—	—	23.5	—	—	—	—	—	—	—
12/23/38	Consumers Power Co. 3½s of 1935	10,168,000	100.0	100.0	—	44.7	44.7	35.9	35.9	—	—	35.9	—	—	22.4	—	—	—	—	—	—	—
11/20/35	Ohio Edison Co. 4s of 1935	43,963,500	100.0	100.0	11.4	34.4	28.7	28.7	28.7	11.4	—	—	—	—	11.4	—	—	—	—	—	—	—
12/30/36	Ohio Edison Co. 3½s of 1935	26,834,000	100.0	100.0	10.8	29.4	29.4	29.4	29.4	10.8	—	—	—	—	10.8	—	—	—	—	—	—	—
9/20/37	Ohio Edison Co. 4s of 1937	8,500,000	100.0	100.0	—	33.0	33.0	33.0	33.0	—	—	—	—	—	33.0	—	—	—	—	—	—	—
3/16/36	Central Illinois Light Co. 3½s of 1936	7,178,500	100.0	100.0	—	—	—	—	37.7	—	—	—	—	—	—	—	—	—	—	—	—	—
7/23/36	Indianapolis Water Co.:																					
	Indianapolis Water Co. 3½s of 1936	13,827,000	100.0	—	—	100.0	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
11/2/36	Niagara Hudson Power Corp.:																					
	Central Hudson Gas & Electric Corp. 4½% Pfd.	340,400	100.0	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
6/24/36	Niagara Falls Power Co. 3½s of 1936	32,493,000	100.0	50.0	50.0	22.9	22.9	22.9	22.9	—	—	34.4	22.9	22.9	11.4	—	—	—	—	—	—	—
6/25/37	Buffalo Niagara Electric Corp. 3½s of 1937	17,029,000	100.0	50.8	50.8	22.8	22.8	22.8	22.8	—	—	34.2	22.8	22.8	—	—	—	—	—	—	—	—
6/25/37	Buffalo Niagara Electric Corp. Ser. Deb. 1938-52	3,420,000	100.0	50.8	50.8	22.8	22.8	22.8	22.8	—	—	33.3	22.8	22.8	—	—	—	—	—	—	—	—
10/7/37	Central New York Power Corp. 3½s of 1937	48,364,000	100.0	49.5	49.5	29.7	29.7	29.7	29.7	—	—	39.6	24.8	14.9	14.9	—	—	—	—	—	—	39.6
10/14/35	Columbia Gas & Electric Corp.:																					
	Dayton Power & Light Co. 3½s of 1935	20,000,000	100.0	40.0	—	40.0	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
8/26/36	Cincinnati Gas & Electric Co. 3½s of 1936	35,000,000	100.0	30.0	—	20.0	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
6/3/37	Cincinnati Gas & Electric Co. 3½s of 1937	10,000,000	100.0	30.2	—	20.0	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
3/11/37	United Gas Improvement Co.:																					
	Philadelphia Electric Co. 3½s of 1937	130,000,000	100.0	22.2	5.6	41.7	33.3	41.7	16.7	8.3	33.3	8.3	19.5	8.3	22.2	4.2	16.7	22.2	8.3	8.3	8.3	38.9
8/11/38	Public Service Corp. of New Jersey: Public Service Electric & Gas Co. 3½s of 1938	10,000,000	100.0	100.0	—	40.0	40.0	40.0	40.0	—	—	—	—	—	—	—	—	—	—	—	—	—

1 Sole participant. Source: Compiled from the registration statements relating to the respective issues on file with the Securities and Exchange Commission.

"EXHIBIT No. 1767-2," introduced on p. 12096, is on file with the Securities and Exchange Commission

EXHIBIT No. 1768-1

[Letter from Investment Banking Section, Monopoly Study, Securities and Exchange Commission, to J. P. Morgan & Co.]

Messrs. J. P. Morgan & Co.,

MARCH 6, 1939.

23 Wall Street, New York, New York.

GENTLEMEN: Preliminary to certain conferences which we proposed to arrange with you in connection with a study of investment banking which the Commission has undertaken at the direction of the Temporary National Economic Committee, established pursuant to Public Resolution No. 113, 75th Congress, we should appreciate your preparing and submitting to us the following information:

1. The names of all corporations for which you act as (a) fiscal agent, (b) transfer agent, or (c) registrar; and the names of all Governments or instrumentalities thereof for which you act as fiscal agent.

2. A list of the corporations or other institutions (including eleemosynary institutions) of which any partner of your firm is a director or trustee, and the name in each case of such partner.

3. A list of all corporations or institutions (including eleemosynary institutions) of which an employee of your firm is a director or trustee, as a result of an interest of your firm in such corporations or institutions, together in each such case with the name of such employee.

4. A statement of any interest which your firm or any partner thereof may have, or may have had, directly or indirectly, in Morgan Stanley & Co. Incorporated, through stock ownership, options, contracts, loans to directors or officers of Morgan Stanley & Co. Incorporated or otherwise.

5. A brief description of any agreements which your firm or any partner thereof may have, or may have had, with Morgan Stanley & Co. Incorporated.

6. Lists of the purchases which your firm, each partner therein (otherwise than through his interest in your firm), each personal holding company, if any, of such partner, and through you, all customers of your firm, respectively, made at or about the time of the initial public offering at the initial public offering price (or at the initial public offering price less a concession [of issues underwritten by Morgan Stanley & Co. inc.]¹).

7. A statement with respect to any finders' fee or other compensation (except for services as fiscal agent, transfer agent, or registrar) which your firm may have received after May 31, 1934 in respect of any security offering or proposed security offering by or through other security dealers.

It will add us in the conduct of our study if we may have your reply by March 16, 1939.

Sincerely yours,

PETER R. NEHEMKIS, Jr.,

Special Counsel, Investment Banking Section, Monopoly Study.

RVE:hfl

EXHIBIT No. 1768-2

[Letter from J. P. Morgan & Co. to Investment Banking Section, Monopoly Study, Securities & Exchange Commission]

J. P. MORGAN & CO.

Wall St. corner Broad, New York

SECURITIES AND EXCHANGE COMMITTEE,
Washington, D. C.

NEW YORK, March 15, 1939.

(Attention of Mr. Peter R. Nehemkis, Jr.)

DEAR SIR: Referring to the request contained in your letter of March 6th, 1939, we have prepared and submit herewith the inclosed schedules.

Yours very truly,

J. P. MORGAN & CO.

Enclosures.

¹ Inserted in ink.

ITEM 1

Item 1-A. We have no general fiscal agency agreement with any corporation regarding financial policy, flotation of loans, etc. The following is a list of the corporations for which we perform one or more of the following services: Payment of Coupons; Sinking Fund Administration; Payment of Matured, Called or Converted Securities; Registration or Transfer of Bonds or Stocks; Payment of Dividends:

Alabama Great Southern Railroad Co.
Alleghany Corporation
American Refrigerator Transit Co.
American Telephone & Telegraph Co.
Atlantic Coast Line Railroad Co.
Atlantic & Yadkin Railway Co.
Baldwin Locomotive Works
Bigelow Sanford Carpet Co.
Boston & Maine Railroad Co.
Brooklyn Edison Co., Inc.
Buffalo General Electric Co.
Buffalo Niagara Electric Corp.
Canadea Power Corp.
J. I. Case Company
J. I. Case Threshing Machine Co.
Central Hudson Gas & Electric Corp.
Central New York Power Corp.
Chattanooga Station Company.
Chesapeake Corporation
Chesapeake & Ohio Railway Co.
Chicago City and Connecting Railways.
Chicago Great Western Railroad Co.
Chicago Indianapolis & Louisville Railway Co.
Cincinnati Gas & Electric Co.
Cincinnati Inter-Terminal Railroad Co.
Cincinnati New Orleans & Texas Pacific Railway Co.
Cincinnati Union Terminal Co.
Cleveland Union Terminals Co.
Consolidated Edison Co. of New York.
Continental Oil Co. of Delaware.
Copper River & Northwestern Railway Co.
Crane Co.
Dayton Power & Light Co.
Detroit & Mackinac Railway Co.
Duluth Missabe & Iron Range Railway Co.
Erie Railroad Company
Federated Department Stores, Inc.
Florida East Coast Railway Co.
Framerican Industrial Development Corp.
General Motors Acceptance Corp.
General Steel Castings Corp.
Glen Falls Insurance Co.
Hocking Valley Railway Co.
Household Finance Corp.
Humble Oil & Refining Co.
Illinois Bell Telephone Co.
Indianapolis Water Co.
Trustees of International Great Northern Railroad.
International Mercantile Marine Co.
International Telephone & Telegraph Corp.
Johns Manville Corp.
Kansas City Terminal Railway Co.
Kentucky & Indiana Terminal Railroad Co.
Lehigh Valley Coal Corp.
Lehigh Valley Railroad Co.
Trustees of Long Dock Co.
Louisville & Jeffersonville Bridge Co.
Louisville & Nashville Railroad Co.
Missouri-Illinois Railroad Co.

Trustees of Missouri-Pacific Railroad Co.
 Mobile & Ohio Railroad Co.
 Morgan Building Corp.
 New Orleans & Northeastern Railroad Co.
 New Orleans, Texas & Mexico Railway Co.
 New York Central Railroad Co.
 New York & Queens Electric Light & Power Co.
 Trustees of New York, New Haven & Hartford Railroad Co.
 New York Edison Co.
 New York Steam Corp.
 Niagara Falls Power Co.
 Niagara Hudson Power Corp.
 Niagara Share Corp. of Maryland
 Northern Pacific Railway Co.
 Pacific Telephone & Telegraph Co.
 Pere Marquette Railway Co.
 Phelps Dodge Corporation
 Philadelphia Electric Power Co.
 Philadelphia & Reading Coal & Iron Co.
 Philadelphia Electric Co.
 Pittston Co.
 Trustees of Postal Telegraph & Cable Corp.
 Procter & Gamble Co.
 Public Service Electric & Gas Co.
 Pullman Incorporated
 Reading Co.
 St. Louis Bridge Co.
 St. Paul Union Depot Co.
 Scott Paper Co.
 Scovill Manufacturing Co.
 Solvay American Corp.
 Southern Improvement Co.
 Southern Railway Co.
 Southwestern Bell Telephone Co.
 Standard Brands Incorporated
 Standard Oil Co., Inc. in New Jersey
 Terminal Railroad Association of St. Louis
 Texas & Pacific Railway Co.
 Texas Pacific-Missouri Pacific Terminal Railroad of New Orleans
 Tunnel Railroad of St. Louis
 United Corporation
 United Gas Improvement Co.
 United States & Hayti Telegraph & Cable Co.
 United States Steel Corp.
 Westchester Lighting Co.
 Western Pocahontas Corp.
 Yonkers Electric Light & Power Co.
 Compagnie des Chemins de Fer a Midi
 Compagnie du Chemin de Fer de Paris a Orleans
 FIAT
 Hudson Bay Mining & Smelting Co. Ltd.
 Italian Credit Consortium for Public Works
 Nord Railway Co.
 Rhokana Corporation Ltd.
 Societa Italiana Pirelli
 Baldwin Locomotive Works
 Barber Asphalt Corp.
 Beaver Coal Corp.
 Franklin County Coal Corp.
 Huntingdon & Broad Top Mountain Railroad & Coal Co.
 Keystone Watch Case Corp.
 Lehigh Valley Coal Corp. and subsidiaries
 Markle Corporation
 Niagara Share Corp. of Maryland
 Philadelphia & Reading Coal & Iron Corp. and subsidiaries
 Continental Passenger Railway Co.
 Philadelphia Traction Co. and subsidiaries

Philadelphia Steel & Wire Corp.
 Phoenix Iron Co.
 Public Service Electric & Gas Co.
 Reading Co.
 Scott Paper Co.

Item 1-B. We have no general fiscal agency agreement with any government or instrumentalities thereof regarding financial policy, flotation of loans, etc. The following is a list of governments (or trustees for governmental loans) for which we perform one or more of the following services: Payment of Coupons; Sinking Fund Administration; Payment of Matured, Called or Converted Securities; Registration of Bonds.

Argentine Government—Government of Argentine Nation
 Commonwealth of Australia
 Trustees of the Austrian Government External Loans
 Kingdom of Belgium
 Republic of Cuba
 French Government
 Trustees of the German Government External Loans
 Greek Government (5% Loan of 1914)
 Imperial Chinese Government (Hukuang Rys.)
 Republic of China
 Kingdom of Italy
 Province of Manitoba
 City of Rome
 Swiss Confederation
 United Kingdom of Great Britain and Ireland
 State of Vermont
 Township of Haverford, Pa.

ITEM 2

MARCH 16, 1939.

Mr. J. P. Morgan:

Associated Parishes of the Episcopal Church
 Church Hymnal Corporation
 Church Life Insurance Corporation
 Church Pension Fund
 Church Properties Fire Insurance Company
 Cooper Union
 Discount Corporation
 Episcopal Fund of the Diocese of New York, Trustees of—
 Flintlock Realty Company
 John and Mary R. Markle Foundation
 Metropolitan Museum of Art
 Metropolitan Opera & Real Estate Company
 Morgan Grenfell & Co., Limited
 Morgan Memorial Park, Glen Cove, N. Y.
 New York Hospital—Cornell Medical College Ass'n.
 New York Public Library
 Parish Securities Corporation
 Pierpont Morgan Library
 Pullman Company
 Pullman Incorporated
 St. John's Church of Lattingtown, L. I., N. Y.
 United States Steel Corporation

Mr. Charles Steele:

Metropolitan Opera & Real Estate Company

Mr. Thomas W. Lamont:

The Academy of Political Science
 American School of Classical Studies at Athens
 Atchison, Topeka & Santa Fe Railway Company
 The Carnegie Foundation for the Advancement of Teaching
 Guaranty Trust Company of New York
 Institute of International Education
 International Agricultural Corporation

¹ A revised schedule supplying this information as of October 26, 1939, appears infra, p. 12325.

International Committee of Bankers on Mexico
 Italy-America Society
 Lamont, Corliss and Company
 The John and Mary R. Markle Foundation
 Metropolitan Museum of Art
 Phillips Exeter Academy
 Pilgrims of the United States
 St. Luke's International Medical Center American Council
 Santa Fe Pacific Railroad Company
 Southwestern Construction Company
 United States Steel Corporation

Mr. Junius S. Morgan:

The American Museum of Natural History
 American Red Cross, New York Chapter
 The Chapin School, Ltd.
 Flintlock Realty Co.
 Frick Collection, The
 General Motors Corporation
 Greater New York Fund, Inc., The
 Harvard College
 Harvard Fund Council
 John and Mary R. Markle Foundation
 Morgan Memorial Park
 New York Public Library
 New York Trade School
 Pierpont Morgan Library
 Police Relief Association of Nassau County
 Seamen's Church Institute of New York

Mr. George Whitney:

Alaska Development & Mineral Company
 Alaska Steamship Company
 Bank for Savings
 Bee Rock Corporation
 Braden Copper Company
 Consolidated Edison Company of New York
 Continental Oil Company
 Corners Corporation, The
 Doctors Hospital
 General Motors Corporation
 Guaranty Trust Company of New York
 Johns-Manville Corporation
 Kennecott Copper Corporation
 Nassau Hospital
 New York Central Railroad
 Pullman Company
 Pullman, Incorporated
 Teachers Insurance and Annuity Association
 Texas Gulf Sulphur
 West Shore Railroad Company

Mr. R. C. Leffingwell:

Carnegie Corporation of New York
 Charity Organization Society
 Council on Foreign Relations, Inc.
 International Telephone & Telegraph Corporation
 North British & Mercantile Insurance Company
 Northern Pacific Railway Company
 Vassar College

Mr. F. D. Bartow:

American Radiator & Standard Sanitary Corporation
 Discount Corporation
 General Electric Company
 Hospital Council of Greater New York
 Greater New York Fund Inc.
 International General Electric Company
 Johns-Manville Corporation
 Roosevelt Hospital
 United Hospital Fund of New York

- Mr. A. M. Anderson:
 International Telephone & Telegraph Corporation
 Japan Society
 New York Botanical Garden
 New York Trust Company
 Northern Pacific Railway Company
 United States Guarantee Company
- Mr. Thomas S. Lamont:
 Beech Corporation
 Charity Organization Society, The
 Continental Oil Company
 Edgewater Creche
 Phelps Dodge Corporation
 Piermont Corporation
 Texas Gulf Sulphur Company
- Mr. H. P. Davison:
 American Brake Shoe and Foundry Company
 American Museum of Natural History
 Boys' Club of New York, The
 Car & General Insurance Corp. Ltd. (U. S. Branch)
 856 Fifth Avenue Corporation
 Montgomery Ward & Co.
 New York Trust Company
 Peacock Corporation
 Peacock Point Corporation
 Provident Fire Insurance Company
 Royal Exchange Assurance of London (U. S. Branch)
 Standard Brands Incorporated
 State Assurance Company
- Mr. Edward Hopkinson, Jr.:
 The Baldwin Locomotive Works and certain of its subsidiaries
 Frankford & Southwark Philadelphia City Passenger Railroad Company
 The Free Library of Philadelphia
 Insurance Company of North America and certain of its subsidiaries
 Keystone Watch Case Corporation and subsidiary
 John D. Lankenau Fund (Lankenau Hospital)
 Pennsylvania Fire Insurance Company.
 Pennsylvania Institution for the Instruction of the Blind
 Philadelphia Chamber of Commerce
 Philadelphia Electric Company
 The Philadelphia Saving Fund Society
 Reading Company
 Second & Third Street Passenger Railway Company
 University of Pennsylvania
 Wistar Institute Fund
- Mr. Charles D. Dickey:
 Beaver Coal Corporation
 Estate of Bradish Johnson Inc.
 Fire Association of Philadelphia and its Associated Companies
 General Steel Castings Corporation
 Northeast Harbor Water Company (Northeast Harbor, Maine)
 Philadelphia Contributionship for Insuring Houses from Loss by Fire
 St. Paul's School, Concord, New Hampshire
 Sharp & Dohme, Incorporated
 Stonega Coke & Coal Company
 Virginia Coal & Iron Company
 Western Saving Fund Society of Philadelphia
- Mr. Henry C. Alexander:
 Legal Aid Society
- Mr. W. A. Mitchell:
 Associated Dry Goods Corporation
 Bankers Association for Foreign Trade
 Buxton School
 Hahne & Company, Inc.

ITEM 3

- Mr. Arthur E. Newbold, Jr. :
Beaver Coal Corporation
Markle Corporation and certain of its subsidiaries
Philadelphia & Reading Coal & Iron Company
Transportation Mutual Insurance Company
- Mr. H. Gates Lloyd, Jr. :
Barber Asphalt Corporation
Charles E. Hires Company
1435 Walnut Street Corporation
Lehigh Valley Coal Corporation and its subsidiaries
Markle Corporation and subsidiaries
- Mr. Edward Starr, Jr. :
DeBardeleben Coal Corporation
1435 Walnut Street Corporation
Franklin County Coal Corporation
Saving Fund Society of Germantown and Its Vicinity
Sharp & Dohme, Inc.
- Mr. Thomas S. Gates, Jr. :
Scott Paper Company, Chester, Pa.
- Mr. Alfred M. Gray :
1435 Walnut Street Corporation
- Mr. Orlando C. Maiden :
1435 Walnut Street Corporation
- Mr. D. Graham Craig :
1435 Walnut Street Corporation
- Mr. Wm. F. Machold :
Philadelphia Steel & Wire Company
- Mr. Leonhard A. Keyes :
Morgan Building Corporation
- Mr. George C. Henckel :
Morgan Building Corporation
- Mr. E. E. Thomas :
Morgan Building Corporation
- Mr. William L. Carson :
Morgan Building Corporation
- Mr. Charles A. Fulcher :
Morgan Building Corporation

ITEM 4

The essential facts were stated in public announcements upon the formation of Morgan Stanley & Co. September 6, 1935. There has been no material change. These public statements were as follows :

"For release morning newspapers September 6, 1935—Announcement of Morgan Stanley & Co. Inc."

"A group of partners and staff members of J. P. Morgan & Co., of New York and Drexel & Co. of Philadelphia, formerly active in the securities business of the firms, have withdrawn and are forming a new organization for the underwriting and wholesaling of investment securities, to be known as Morgan Stanley & Co. Inc. Messrs. Harold Stanley, William Ewing, and Henry S. Morgan of J. P. Morgan & Co., Messrs. Perry E. Hall and Edward H. York, Jr. of Drexel & Co., and Messrs. John M. Young and A. N. Jones, heretofore managers of the Bond and Statistical Departments of J. P. Morgan & Co., are to be the executive officers of the new corporation. Mr. Stanley will be the President of the new corporation."

"The new securities corporation will have a paid in capital of \$7,500,000 divided into common and preferred stock. The common shares, which have sole voting rights in the election of the directorate, are to be held exclusively by the officers and staff of the corporation. The preferred shares will be held by members of this group and by certain individual partners of J. P. Morgan & Co. The corporation will open its offices for business at No. 2 Wall Street, New York City, on September 16th next."

"For release morning newspapers September 6, 1935—Statement of J. P. Morgan & Co."

"We have to announce with regret the resignations of the following members of J. P. Morgan & Co. and of Drexel & Co. who, with other valued members of our staffs, have, under the name of Morgan Stanley & Co. Inc., undertaken to organize and carry on a securities business of the character formerly handled by our firms: Harold Stanley, William Ewing, Henry S. Morgan, Perry E. Hall, Edward H. York, Jr."

"The withdrawal of these partners and associates, and their formation of a separate and independent securities company, is, we consider, a logical step following upon our firm's decision a year ago, to carry on our banking business rather than the securities business; thus acting in accordance with the banking and securities provisions of the Banking Act of 1933, recently confirmed by the Banking Act of 1935, just enacted. We believe that the members of the new organization will be able, with the ample experience which they have heretofore had, to serve usefully the investment interests of the community."

"The firms of J. P. Morgan & Co. and Drexel & Co. will continue as heretofore to carry on their business as private bankers."

J. P. Morgan & Co. have no interest whatever in Morgan Stanley & Co. whether through stock ownership, options, contracts, loans to directors or officers or otherwise.

No partners of J. P. Morgan & Co. own or have owned common stock in Morgan Stanley & Co. The following partners in J. P. Morgan & Co. individually are owners or beneficially interested in 55,700 shares in the aggregate of preferred stock in Morgan Stanley & Co.: Arthur M. Anderson, Francis D. Bartow, Thomas S. Lamont, Thomas W. Lamont, R. C. Leffingwell, J. P. Morgan, J. S. Morgan and Charles Steele.

J. P. Morgan, Thomas W. Lamont, H. G. Lloyd (deceased) and George Whitney were formerly owners of additional amounts of said preferred stock now owned by officers and directors of Morgan Stanley & Co. and certain estates and trusts.

Neither J. P. Morgan & Co. nor any partners have any loans to Morgan Stanley & Co. or to any of the officers or directors thereof. Two directors and officers of Morgan Stanley & Co., Harold Stanley and Edward H. York, Jr., who were partners in former firms of J. P. Morgan & Co. and Drexel & Co. prior to the formation of Morgan Stanley & Co., have at present debit balances in said former firms which have been dissolved and are in liquidation, in the assets of which former firms some of the present partners, and partners who resigned and estates of deceased partners, but not the present firm of J. P. Morgan & Co., are interested; such debit balances being subject to ultimate ascertainment and settlement on the completion of such liquidation.

ITEM 5

None.

ITEM 6
Morgan Stanley & Co. Bond Issues

Total Amount Issued and underwritten	Issue	Date of Prospectus	Public Offering Price	Principal Amount of Bonds Purchased by J. P. Morgan & Co.				Prices at which Purchased to Clients	Prices at which confirmed to Clients	Number of Dealers and Brokers from whom Purchased	Number of Clients for whom Purchased
				For Firm Account	For Partners' Own Account	For Partners' Holding Cos.	As Agents for Clients				
19,172,000	Consumers Power Co. 1st Lien and Unifying Mgt. Bonds 3½% Series of 1935, due May 1, 1965.	Sept. 21, 1935	99				\$220,000	99	99+2.50	7	4
20,000,000	Dynon Motor & Light Co. 1st & Refunding Mgt. Bonds 3½% Series due Oct. 1, 1960.	Oct. 14, 1935	99½				\$30,000	99	99½	1	1
145,000,000	Illinois Bell Telephone Co. 1st & Ref. Mgt. 3½% Bonds Series "B", due Oct. 1, 1970.	Oct. 16, 1935	102½				472,000	99½	99½	27	15
43,963,500	Ohio Edison Co. 1st & Cons. Mgt. Bonds 4% Series of 1933, due Nov. 1, 1963.	Nov. 20, 1935	100½				1,485,000	102½	102½	39	17
25,000,000	New York & Queens Electric Light & Power Co. 1st & Cons. Mgt. Bonds 3½% Series of 1933, due Nov. 1, 1963.	Nov. 25, 1935	102				730,000	100½	100½	32	14
245,000,000	Southwestern Bell Telephone Co. 1st & Ref. Mgt. 3½% Bonds Series "B", due Dec. 1, 1964.	Dec. 12, 1935	102½				950,000	102	102	39	7
55,000,000	New York Edison Co. Inc. 1st Lien & Ref. Mgt. 3¼% Bonds Series "D", due Oct. 1, 1965.	Feb. 27, 1936	100				1,039,000	102½	102½	41	11
7,173,500	Central Illinois Light Co. 1st & Cons. Mgt. Bonds 3½% Series due Apr. 1, 1960.	Mar. 16, 1936	104				1,877,000	100	100	52	18
55,830,000	Consumers Power Co. 1st Mgt. Bonds 3½% Series of 1936, due Nov. 1, 1970.	Mar. 19, 1936	103½				406,000	104	104	16	9
9,292,000	Louisville & Nashville R. R. 1st & Ref. Mgt. 4% Bonds Series "D", due Apr. 1, 2003.	Mar. 23, 1936	100				1,140,000	103½	103½	41	12
15,000,000	New York Central R. R. Secured Serial Notes Issue of 1936 due \$3,000,000 annually on Apr. 1, 1937 to Apr. 1, 1941 incl. (rates of interest from 1½% to 2.60%)	(3)	100				60,000	100	100	7	1
40,000,000	New York Central R. R. 10-Yr. 3¼% Secured Sinking Fund Bonds due Apr. 1, 1946	Apr. 6, 1936	98	\$4,000,000		None		100			
35,000,000	Consolidated Edison Co. N. Y. Inc. 10-Yr. 3¼% Deb. Series due Apr. 1, 1946	Apr. 9, 1936	101				330,000	98	98	24	6
35,000,000	20-Yr. 3½% Deb. Series due Apr. 1, 1956	Apr. 9, 1936	99½				1,077,000	101	101	46	15
30,000,000	Pacific Tel. & Tel. Co. Ref. Mgt. 3¼% Bonds Series "B" due Apr. 1, 1936.	Apr. 10, 1936	101½				640,000	99½	99½	31	7
40,352,000	Chesapeake & Ohio Ry. Ref. & Imp. Mgt. 3½% Bonds Series "D", due May 1, 1936.	Apr. 30, 1936	99½				1,315,000	101½	101½	49	16
24,000,000	Cincinnati Union Terminal Co. 1st Mgt. 3¼% Bonds Series "D", due May 1, 1971.	May 1, 1936	102½				286,000	99½	99½	28	5
							1,323,000	102½	102½	44	17

22,727,000	Chicago & Western Ind. R. R. 1st & Ref. Mtge. 4½% Series "D" Sinking Fund Bonds, due Sept. 1, 1962.	May 22, 1936	102	---	---	---	319,000	102	102	32	6
55,000,000	Brooklyn Edison Co. Inc. Cons. Mtge. 3¼% Bonds Series of 1936 due May 15, 1966.	May 25, 1936	101½	---	---	---	1,183,000	101½	101½	53	12
683,000,000 (underwritten)	Standard Oil Co. (Inc. in N. J.) 25-Yr. 3% Deb. due June 1, 1961.	May 27, 1936	98	---	---	---	1,374,000	98	98	45	16
32,493,000	Crane Company 15-Yr. 3½% Sinking Fund Deb. due June 1, 1961.	June 18, 1936	98½	---	---	---	330,000	98½	98½	22	3
26,000,000	Niagara Falls Power Co. 1st & Ref. 3½% Bonds Series of 1936 due Mar. 1, 1966.	June 24, 1936	104	---	---	---	1,140,000	104	104	57	19
15,300,000	Louisville & Nashville R. R. 1st & Ref. Mtge. 3¼% Bonds Series "E", Apr. 1, 2033.	June 25, 1936	98	---	---	---	50,000	98	98	6	1
13,827,000	Chesapeake & Ohio Ry. Co. Serial Notes Issue of 1936, Maturing 1,530,000 annually on July 15, 1937 to July 15, 1946 incl. (rates of interest from 9% to 2½%) Indianapolis Water Co. 1st Mtge. 3½% Bonds Series due July 1, 1966.	July 14, 1936	100	1,273,000	---	---	8100,000	100	100	41	1
30,000,000	New York Edison Co. 1st Lien & Ref. Mtge. 3¼% Bonds Series "E", due Apr. 1, 1966.	July 23, 1936	100	---	---	---	424,000	100	100	28	9
29,500,000	Chesapeake & Ohio Ry. Ref. & Imp. Mtge. 3½% Bonds Series "E", due Aug. 1, 1966.	July 24, 1936	102	---	---	---	41,300	102	102	5	1
50,000,000	General Motors Acceptance Corp.: 10-Yr. 3½% Series due Aug. 1, 1946	July 30, 1936	99½	---	---	---	200,000	99½	99½	16	2
50,000,000	15-Yr. 3¼% Series due Aug. 1, 1951.	Aug. 20, 1936	101½	---	---	---	2,532,000	101½	101½	56	32
35,000,000	Cincinnati Gas & Electric Co. 1st Mtge. 3¼% Bonds Series due Aug. 1, 1966.	Aug. 20, 1936	101½	---	---	---	2,354,000	101½	101½	51	21
175,000,000	American Tel. & Tel. Co. 25-Yr 3¼% Deb. due Oct. 1, 1961.	Aug. 26, 1936	102	---	---	---	916,000	102	102	45	6
23,500,000	Argentine Republic Sinking Fund External Conversion Loan 4½% Bonds due Nov. 15, 1971.	Oct. 15, 1936	101	---	---	---	5,069,000	101	101	72	61
10 150,000,000	American Tel. & Tel. Co. 30-Yr 3¼% Deb. due Dec. 1, 1966.	Nov. 19, 1936	92½	---	---	---	320,000	92½	92½	33	15
12,000,000	Consumers Power Co. 1st Mtge 3¼% Bonds due Nov. 1, 1966	Dec. 2, 1936	102	---	---	---	4,674,000	102	102	70	44
25,000,000	Pacific Tel. & Tel. Co. Ref. Mtge 3¼% Bonds "C" due Jan. 1, 1967	Dec. 3, 1936	102½	---	---	---	215,000	102½	102½	13	3
26,884,000	Ohio Edison Co. 1st Mtge 3¼% Bonds Series of 1937 due Jan. 1, 1972	Dec. 17, 1936	105	---	---	---	448,000	105	105	32	13
50,000,000	Great Northern Ry Gen'l Mtge 3¼% Bonds Series "I", due Jan. 1, 1967	Dec. 30, 1936	103	---	---	---	145,000	103	103	15	3
30,000,000	Gov't of the Dominion of Canada 7-Yr 2¼% Bonds due Jan. 15, 1944	Jan. 14, 1937	97½	---	---	---	152,000	97½	97½	19	4
55,000,000	Gov't of the Dominion of Canada 30-Yr 3% Bonds due Jan. 15, 1967	Jan. 21, 1937	99½	---	---	---	815,000	99½	99½	47	6
70,000,000	Argentine Republic S. F. Ext'l Conv. Loan 4% Bonds due Feb. 15, 1972	Jan. 21, 1937	98	---	---	---	195,000	98	98	23	3
130,000,000	Philadelphia Electric Co. 1st & Ref. Mtge 3½% Bonds Series due Mar. 1, 1967.	Feb. 10, 1937	91	---	---	---	1,972,000	91	91	29	17
		Mar. 11, 1937	102½	---	---	---	2,218,000	102½	102½	62	19

See footnotes at end of table.

Morgan Stanley & Co. Bond Issues—Continued

Total Amount Issued and Amount underwritten	Issue	Date of Prospectus	Public Offering Price	Principal Amount of Bonds Purchased by J. P. Morgan & Co.				Prices at which Purchased	Prices at which confirmed to Clients	Number of Dealers and Brokers from whom Purchased	Number of Clients for whom Purchased
				For Firm Account	For Partners' Own Account	For Partners' Holding Cos.	As Agents for Clients				
35,000,000	Argentine Republic S. F. Ext'l Conv. Loan 4% Bonds due April 15, 1972	Apr. 22, 1937	89½		None						
11 45,000,000	Southern Bell Tel. & Tel. Co. 25-Yr 3¼% Debs. due April 1, 1962	May 5, 1937	96½				833,000	96½	96½	32	8
10,000,000	Cincinnati Gas & Elec. Co. 1st Mtge 3¼% Bonds Series due June 1, 1937	June 3, 1937	102½				159,000	102½	102½	23	5
20,285,000	Phelps Dodge Corp. Conv. 3¼% Deb. due June 15, 1952	June 1, 1937	100		None						
25,000,000	New York Telephone Co. Ref. Mtge. 3¼% Bonds Series "B" due July 1, 1967	June 24, 1937	100				275,000	100	100	22	2
17,029,000	Buffalo, Niagara Electric Corp. Gen'l & Ref. Mtge. 3¼% Bonds Series "C" due June 1, 1967	June 25, 1937	102				206,000	102	102	17	1
1,140,000	Buffalo, Niagara Electric Corp. Serial Debentures: 2½% Series "A" due June 1, 1938/1942	June 25, 1937	100 678					99 678	100 678		
1,140,000	3½% Series "B" due June 1, 1943/1947	June 25, 1937	100 896					99 896	100 896		
1,140,000	3¼% Series "C" due June 1, 1948/1952	June 25, 1937	100 068					99 068	100 068		
25,000,000	Westchester Lighting Co. Gen'l Mtge. 3¼% Bonds Series due July 1, 1967	July 22, 1937	102½		None						
8,500,000	Ohio Edison Co. 1st Mtge. Bonds 4% due Sept. 1, 1967	Sept. 29, 1937	100½				10,000	100½	100½	1	1
48,364,000	Central New York Power Corp. Gen'l Mtge. 3¼% Bonds Series due Oct. 1, 1962	Oct. 7, 1937	99				211,000	99	99	34	4
30,000,000	Consolidated Edison Co. of N. Y. Inc. 20-Year 3½% Deb. Series due Jan. 1, 1958	Jan. 13, 1938	101¾				297,000	101¾	101¾	31	5
9,000,000	Consumers Power Co. 1st Mtge. 3½% Bonds Series of 1937 due Nov. 1, 1967	Jan. 19, 1938	102				83,000	102	102	14	2
14 30,000,000	Duluth, Missabe & Iron Range Ry. 1st Mtge. 3½% Bonds due Oct. 1, 1962	Mar. 30, 1938	98				326,000	98	98	27	6
60,000,000	Consolidated Edison Co. of N. Y. Inc. 10-Year 3½% Deb. due April 1, 1948	Apr. 21, 1938	101¾				290,000	101¾	101¾	24	4
100,000,000	United States Steel Corp. 10-Year 3¼% Deb. due June 1, 1948	June 2, 1938	100				5,559,000	100	100	87	57
18 30,000,000	Mountain States Tel. & Tel. Co. 30-Year 3¼% Deb. due June 1, 1968	June 9, 1938	102				515,000	102	102	32	10
50,000,000	Standard Oil Co. (Inc. in N. J.) 15-Yr. 2¼% Deb. due July 1, 1953	July 7, 1938	99				1,191,000	99	99	58	19
16 35,000,000	Standard Oil Co. (Inc. in N. J.) Serial Notes maturing 7,000,000 Annually from July 1, 1943 to 1947 Inclusive (Rates of Int. from 1½% to 2½%)	July 7, 1938	100				2,494,000	100	100	69	27

17 30,000,000	Southwestern Bell Tel. Co. 1st & Ref. Mgtg 3% Bonds Series "C" due July 1, 1938.	July 14, 1938	100	270,000	100	100	24	8
10,000,000	Public Service Electric & Gas Co. 1st & Ref. Mgtg. 3½% Bonds due July 1, 1938.	Aug. 11, 1938	104½	402,000	104½	104½	42	4
27,982,000	New York Steam Corp. 1st Mgtg. 3½% Bonds due July 1, 1938.	Aug. 12, 1938	100	135,000	100	100	17	3
25,000,000	Argentine Republic 10-Year S. F. Extl. Loan 4½% Bonds due Nov. 1, 1948.	Nov. 3, 1938	95½	283,000	95½	95½	35	13
40,000,000	Gov't. of the Dominion of Canada 30-year 3% Bonds due Nov. 15, 1938.	Nov. 17, 1938	97½	808,000	97½	97½	47	7
21,071,800	Continental Oil Co. 10-Year 2½% Conv. Deb. due Dec. 15, 1948.	Dec. 2, 1938	100	None				
16,000,000	Railway Express Agency Inc. Serial Notes Series "A" maturing \$800,000. each June 1 & Dec. 1 from June 1, 1939 to Dec. 1, 1948 inclusive (Rates of Int. from 3½% to 2½% inclusive).	Dec. 22, 1938	100	1,353,000	100	100	52	14
10,163,000	Consumers Power Co. 1st Mgtg. 3½% Bonds Series of 1936 (Add'l. Issue) due Nov. 1, 1966.	Dec. 23, 1938	104½	29,000	104½	104½	6	2

1 43,700,000 underwritten.
 2 44,000,000 underwritten.

3 No prospectus, indenture dated Apr. 1, 1936.

4 This issue sold privately by M. S. & Co. J. P. M. & Co. and other banks purchased these notes.

5 Equal maturities.

6 30,000 underwritten.

7 Note due July 15, 1937, July 15, 1938, and July 15, 1939.

8 Note due July 15, 1945.

9 150,000,000 underwritten.

10 140,000,000 underwritten.

11 42,500,000 underwritten.

12 Offered by company to stockholders.

13 4,700,000.

14 28,000,000 underwritten.

15 27,750,000 underwritten.

16 31,000,000 underwritten.

17 28,900,000 underwritten.

Morgan Stanley & Co. Stock Issues

Total Amount Issued and Amount Underwritten	Issue	Date of Prospectus	Public Offering Price	Amount of Shares purchased by J. P. Morgan & Co.				Prices at which purchased to Clients	Prices at which confirmed to Clients	Number of Dealers and Brokers from whom purchased	Number of Clients for whom purchased
				For Firm Account	For Partners' Own Account	For Partners' Holding Cos.	As Agents for Clients				
500,000 1	E. I. duPont de Nemours & Co. \$4.50 Cum. pfd. Stock	June 30, 1937	100	None	None	None	5,782	100	100	48	35
200,000 1	Standard Brands Inc. \$4.50 Cum. pfd. Stock	June 23, 1937	95	None	None	None	12,830	95	95	36	16

1 Shares.

None.

ITEM 7

EXHIBIT No. 1769

[Prepared by J. P. Morgan & Co.]

Date	Title	Amount of Issue	Original Group		Intermediate Group		Syndicate & Selling Group		Our Total Profit	Participation Received from—
			Amount of Our Interest	Our Profit	Amount of Our Interest	Our Profit	Amount of Our Interest	Our Profit		
Dec. 10, 1919	Consolidated Gas Co. of N. Y. 5-Yr. 7% Conv. Notes due Feb. 1, 1923	\$55,000,000	\$4,000,000	\$20,000.00	-----	-----	\$1,000,000	\$11,619.95	\$31,619.95	National City Co.
Dec. 4, 1920	Consolidated Gas Co. of N. Y. 8% sec. notes due Dec. 1921	25,000,000	4,000,000	20,000.00	-----	-----	800,000	9,521.01	29,521.01	" "
July 27, 1921	Brooklyn Edison Co., Inc. Gen. Mtge. 7% Series "D" due Dec. 1, 1940	3,000,000	300,000	5,250.00	-----	-----	-----	-----	5,250.00	National City Co.
Nov. 19, 1921	Consolidated Gas Co. of N. Y. 1-Yr. 7% sec. Notes	20,000,000	3,200,000	22,705.82	-----	-----	-----	-----	22,705.82	National City Co.
Nov. 28, 1921	New York Edison Co. 1st Lien & Ref. Mtge. Series "A" 6½% due Oct. 1, 1941	30,000,000	5,000,000	46,875.00	-----	-----	28,000	385.00	47,260.00	" "
May 26, 1922	Brooklyn Union Gas Co. 1st Lien & Ref. Series "A" 6% due May 1, 1947	6,000,000	1,000,000	10,000.00	-----	-----	-----	-----	10,000.00	" "
June 24, 1922	New York Steam Corp. 1st Mtge. Series "A" 6% due 1947	5,000,000	1,250,000	35,734.14	-----	-----	-----	-----	35,734.14	" "
Nov. 3, 1924	Brooklyn Edison Co., Inc. Gen. Mtge. 5% Series "A" due January 1, 1949	25,000,000	1,875,000	23,428.93	-----	-----	-----	-----	23,428.93	" "
Feb. 6, 1925	Consolidated Gas Co. of N. Y. 20-Yr. 5½% Deb. due Feb. 1, 1945	50,000,000	9,521,000	76,168.00	-----	-----	-----	-----	76,168.00	" "
Feb. 6, 1925	New York Edison Co. 1st Lien & Ref. Mtge. Series "B" 8% due Oct. 1, 1944	30,000,000	5,500,000	46,750.00	-----	-----	-----	-----	46,750.00	" "
Apr. 20, 1926	New York Steam Corp. 1st Mtge. 5% Bonds due May 1, 1951	2,500,000	625,000	7,500.00	-----	-----	-----	-----	7,500.00	" "
Jan. 19, 1927	Consolidated Gas Co. of N. Y. 5% cum. Pfd. stock	11,200,000	1,150,000	75,000.00	-----	-----	-----	-----	75,000.00	" "
Feb. 15, 1927	New York Steam Corp. 1st Mtge. 5% Bonds due May 1, 1951	3,000,000	750,000	9,812.50	-----	-----	-----	-----	9,812.50	" "
Apr. 5, 1927	New York Steam Corp. 1st Mtge. 5% Bonds due May 1, 1951	1,000,000	250,000	2,812.50	-----	-----	-----	-----	2,812.50	" "
June 25, 1927	New York Steam Corp. 1st Mtge. 5% Bonds due May 1, 1951	1,500,000	375,000	8,000.00	-----	-----	-----	-----	8,000.00	" "
Apr. 28, 1928	New York Steam Corp. 1st Mtge. 5% Bonds due May 1, 1951	4,000,000	1,000,000	1,750.00	-----	-----	-----	-----	1,750.00	" "
Mar. 21, 1929	New York Steam Corp. 1st Mtge. 5% Bonds due May 1, 1951	2,000,000	500,000	6,875.00	-----	-----	-----	-----	6,875.00	" "
May 23, 1930	Brooklyn Union Gas Co. 20-Yr. 5% Deb. due June 1, 1950	18,000,000	1,833,333	96,900.00	-----	-----	-----	-----	111,900.00	" "
May 19, 1931	Consolidated Gas Co. of N. Y. 20-Yr. 4½% Deb. due June 1, 1951	60,000,000	11,400,000	96,900.00	-----	-----	-----	-----	111,900.00	" "

Jan. 3, 1932	New York Edison Co. 1st Lien & Ref. Mtge. Series "C," 5% due Oct. 1, 1951.	25,000,000	4,750,000	28,500 00	-----	-----	-----	-----	-----	28,500.00	"	"
Feb. 17, 1932	Brooklyn Edison Co. Inc. Gen. Mtge. 5% Series "B," due Nov. 1, 1952.	25,000,000	4,750,000	28,500.00	-----	-----	-----	-----	-----	29,575.00	"	"
Mar. 16, 1932	New York Steam Corp. 1st Mtge. 5% Bonds due Nov. 1, 1956.	8,700,000	1,707,375	5,975.81	-----	-----	-----	-----	-----	12,805.31	"	"
July 13, 1932	Brooklyn Union Gas Co. 1st Lien & Ref. Series "B," 5% due May 1, 1957.	10,000,000	1,166,750	3,612.92	-----	-----	-----	-----	-----	3,612.92	"	"
July 15, 1932	Consolidated Gas Co. of N. Y. 25-year. 5% Debts. due July 15, 1957.	30,000,000	5,887,500	32,970.00	-----	-----	-----	-----	-----	32,970.00	"	"
	Total	(409,700,000 1,200,000	70,640,958 150,000	615,120.62	-----	-----	-----	-----	-----	659,551.08		

1 Share.

EXHIBIT No. 1770

Participations of Blyth & Co., Inc., in issues managed by Morgan Stanley & Co., Inc., Sept. 16, 1935, to June 30, 1939

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Date of Offering Prospectus	Issue	Amount of Issues Managed by Morgan Stanley & Co. Inc., in which Blyth & Co., Inc. Was a Participant	Amount of Blyth & Co., Inc. Par- ticipation	Percent of Blyth & Co., Inc. Par- ticipation	Blyth & Co., Inc. Prof- its (Before Overhead, etc.)
11/20/35	Ohio Edison Co. 4s of 1965	(000)	(000)	4.5	\$27,272
11/25/35	New York & Queens Elec. Lgt. & Pwr. Co. 3½s of 1965	\$43,964 25,000	\$2,000 4,000	16.0	44,988
	Sub-total (1935)	\$68,964	\$6,000	8.7	\$72,260
2/27/36	New York Edison Co., Inc. 3¼s of 1965	55,000	5,000	9.1	68,072
3/19/36	Consumers Power Co. 3¼s of 1970	27,915	500	1.8	7,579
4/6/36	New York Central R. R. Co. 3¼s of 1946	40,000	2,000	5.0	19,395
4/6/36	New York Central R. R. Co. Serial Notes	15,000	750	5.0	812
4/9/36	Consolidated Edison Co. of N. Y. 3¼s of 1946	35,000	3,000	8.6	35,421
4/9/36	Consolidated Edison Co. of N. Y. 3¼s of 1956	35,000	3,000	8.6	37,761
4/16/36	Pacific Tel. & Tel. Co. 3¼s of 1966	30,000	2,300	7.7	25,530
4/30/36	C. & O. Rwy. Co. 3¼s of 1936 Series D	40,362	2,500	6.2	25,734
5/1/36	Cincinnati Union Terminal 3¼s Series D	12,000	500	4.2	5,378
5/25/36	Brooklyn Edison Co., Inc. 3¼s Series of 1936	55,000	5,000	9.1	57,694
5/27/36	Standard Oil Co., (N. J.) 3s of 1961	30,000	2,000	6.7	19,583
6/25/36	Louisville & Nashville R. R. Co. 3¼s Series E	26,000	1,500	5.8	15,914
7/14/36	C. & O. Rwy. Co. Serial Notes of 1937-46	15,300	900	5.9	5,756
7/24/36	New York Edison Co., Inc. 3¼s of 1966	30,000	2,700	9.0	24,050
7/30/36	C. & O. Rwy. Co. 3¼s E of 1966	29,500	1,800	6.1	19,337
8/20/36	General Motors Acceptance Corp. 3¼s of 1951	50,000	1,750	3.5	20,701
10/15/36	General Motors Acceptance Corp. 3s of 1946	50,000	1,750	3.5	16,482
11/19/36	American Tel. & Tel. Co. 3¼s of 1961	175,000	5,000	2.9	70,832
11/26/36	Argentine Republic 4½s of 1971	23,500	1,250	5.3	19,439
12/2/36	American Tel. & Tel. Co. 3¼s of 1966	140,000	4,000	2.9	59,722
12/17/36	Pacific Tel. & Tel. Co. 3¼s of 1966	25,000	1,900	7.6	18,540
12/30/36	Ohio Edison Co. 3¼s of 1972	13,417	550	4.1	6,608
	Sub-total (1936)	\$952,994	\$49,650	5.2	\$570,340
1/14/37	Great Northern Rwy. Co. 3¼ Bonds Serial I	50,000	2,000	4.0	21,229
1/21/37	Government of Canada 2½s of 1944	30,000	882	2.9	27,279
1/21/37	Government of Canada 5s of 1967	55,000	1,618	2.9	47,420
2/10/37	Argentine Republic 4s of 1972	70,000	3,000	4.3	35,091
3/11/37	Philadelphia Electric Co. 3¼s of 1967	130,000	4,000	3.1	16,065
4/22/37	Argentine Republic 4½ S. F.'s	35,000	1,500	4.3	

5/5/37	Southern Bell Tel. & Tel. Co., 3½s of 1962	42,500	1,000	2.4	11,862
6/17/37	Crane Co. 5% Pfd. Stock	19,280	964	3.0	16,791
6/23/37	Standard Brands, Inc. \$4.50 Pfd. Stock	19,000	950	3.0	11,249
6/30/37	E. I. duPont de Nemours \$4.50 Pfd. stock	50,000	1,500	3.0	21,754
7/1/37	Phelps Dodge Corp. Conv. 3½s	20,285	761	3.8	9,784
7/22/37	Westchester Lighting Co. 3½s of 1967	25,000	2,960	10.0	23,211
10/7/37	Central New York Power Corp. 3½s of 1962	48,364	1,560	3.1	18,038
	Sub-total (1937)	\$594,429	\$22,175	3.7	\$259,773
1/13/38	Consolidated Edison Co. of N. Y. 3½s of 1958	30,000	2,375	8.6	25,620
3/30/38	Duluth, Missabe & Iron Range Rwy. Co. 3½s Bonds	28,000	1,200	4.3	13,643
4/21/38	Consolidated Edison Co. of N. Y. 3½s of 1948	60,000	3,700	6.2	44,862
6/2/38	U. S. Steel Corp. 3½s of 1948	100,000	3,300	3.3	40,539
6/9/38	Mountain States Tel. & Tel. Co.	50,000	750	2.5	9,592
7/7/38	Standard Oil Co. (N. J.) 2½s of 1953	30,000	2,160	4.3	19,467
7/7/38	Standard Oil Co. (N. J.) Serial Notes	31,000	1,340	4.3	11,654
7/14/38	Southwestern Bell Tel. Co. 3s of 1963	23,900	700	2.4	9,198
8/12/38	New York Steam Corp. 3½s of 1963	21,952	2,275	8.1	24,027
11/3/38	Argentine Republic 4½s of 1948	23,000	1,000	4.0	19,816
11/17/38	Government of Canada 3s of 1968	40,000	1,000	2.5	13,233
12/19/38	Continental Oil Co. 2½s Conv. Debs	21,072	738	3.5	10,394
	Sub-total (1938)	\$471,954	\$20,738	4.4	\$242,045
5/1/39	Eastman Kodak Co. Common Stock	23,699	1,148	4.0	14,146
	Sub-total (1939)	\$28,699	\$1,148	4.0	\$14,146
	Grand Total September 16, 1935 to June 30, 1939	\$2,117,040	\$99,711	4.7	\$1,158,564

NOTE.—In those issues in which there were co-managers, the amounts of the issues and each firm's participation were divided equally among the co-managers. In those issues in which there were co-managers, the source of the profits was allocated equally among the co-managers.

Source: Data supplied by Blyth & Co., Inc.

EXHIBIT No. 1771

Relative participations in utility issues managed or managed by Morgan Stanley & Co. Incorporated, 1935-1939—Participations of the principal underwriters in relation to the participation of Morgan Stanley & Co. Incorporated—Schedule A: Issues on Consolidated Edison Co. of New York, Inc., and its subsidiaries.

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Date of Offering Prospectus	Issue	Amount	Morgan Stanley & Co. Inc.	Blith & Co., Inc.	Bonbright & Co.	The First Boston Corporation	Smith, Barney & Co. (E. B. Smith & Co.)	Lazard Freres & Co.	Clark, Dodge & Co.	Hayden Stone & Co.	Lee, Higginson Corp.	Kidder, Peabody & Co.	Goldman Sachs & Co.	Brown, Hartman & Co., Inc.	Kuhn, Loeb & Co.	Lehman Brothers	Dillon, Read & Co., Inc.	Schoelkopf, Hutton & Pomerooy, Inc.	Mellon Securities Corp.	Kean, Taylor & Co.	F. S. Mosley & Co.	White, Weld & Co.	Stone & Webster and Blodgett, Inc.	Bancamerica Corp.	Harris, Hall & Co., Inc.	J. & W. Seligman & Co.	Spencer Trask & Co.		
4/ 9/36	Consolidated Edison Co. of New York, Inc. 3½% of 1936	\$35,000,000	100.0	0.40	0.20	0.20	0.20	0.20	0.10	0.10	0.10	0.10	0.10	0.23	0.33	1.6	13.3	13.3	13.3	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7
4/ 9/36	Consolidated Edison Co. of New York, Inc. 3½% of 1946	35,000,000	100.0	0.40	0.20	0.20	0.20	0.20	0.10	0.10	0.10	0.10	0.10	0.23	0.33	3.16	13.3	13.3	13.3	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7
1/13/38	Consolidated Edison Co. of New York, Inc. 3½% of 1938	30,000,000	100.0	0.41	0.20	0.20	0.20	0.20	0.10	0.10	0.10	0.10	0.10	0.23	0.34	2.17	15.9	13.5	13.5	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7	6.7
4/21/38	Consolidated Edison Co. of New York, Inc. 3½% of 1943	60,000,000	100.0	0.41	0.21	0.21	0.21	0.21	0.11	0.11	0.11	0.13	0.13	0.24	0.33	3.16	17.21	14.4	16.7	8.3	8.3	8.3	8.3	8.3	8.3	8.3	8.3	8.3	8.3
11/25/35	New York & Queens Elec. Light & Power Co. 3½% of 1935	25,000,000	100.0	0.42	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10
2/27/36	New York Edison Co., Inc. 3½% of 1935	55,000,000	100.0	0.33	0.20	0.20	0.20	0.16	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10
7/24/36	New York Edison Co., Inc. 3½% of 1936	30,000,000	100.0	0.33	0.18	0.18	0.18	0.15	0.12	0.12	0.12	0.12	0.12	0.12	0.12	0.12	0.12	0.12	0.12	0.12	0.12	0.12	0.12	0.12	0.12	0.12	0.12	0.12	0.12
5/25/36	Brooklyn Edison Co., Inc. 3½% of 1936	55,000,000	100.0	0.33	0.20	0.23	0.23	0.16	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10
7/22/37	Westchester Lighting Co. 3½% of 1937	25,000,000	100.0	0.31	0.15	0.15	0.15	0.13	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10
8/12/38	New York Steam Corporation 3½% of 1933	27,932,000	100.0	0.40	0.20	0.21	0.21	0.20	0.11	0.11	0.11	0.15	0.11	0.30	0.34	0.17	0.15	15.5	15.5	7.0	7.0	7.0	7.7	7.7	7.0	7.0	7.0	7.0	7.0

Source: Compiled from the registration statements relating to the respective issues on file with the Securities and Exchange Commission.

EXHIBIT No. 1772

Financing of Consolidated Edison Co. of N. Y. Inc., and its subsidiaries by Morgan Stanley & Co. Incorporated, Sept. 16, 1935 to June 30, 1939

[Prepared by the staff of the Investment Banking Section, Monopoly Study, Securities and Exchange Commission]

Date of Offering Prospectus	Title of Issue	Total Amount of Issue Underwritten	Amount of Morgan Stanley & Co.'s Underwriting Participation	Bankers' Gross Commissions	Morgan Stanley & Co.'s Manager's Compensation	Morgan Stanley & Co.'s Gross Profit Before Syndicate Expenses	Gross Profit After Syndicate Expenses but Before Office Expenses, Taxes, Overhead & Return on Capital
11/25/35.....	N. Y. & Queens Elec. Lt. & Pwr. Co., 3½% due 1965.....	\$25,000,000	\$9,350,000	\$500,000		\$175,562	\$175,312
2/27/36.....	N. Y. Edison Co., Inc. 3½% due 1965.....	55,000,000	15,000,000	1,100,000	\$83,750	337,500	327,405
4/9/36..... ²	Consolidated Edison Co. of N. Y. 3½% due 1946.....	35,000,000	7,500,000	612,500	87,500	153,125	148,588
4/9/36.....	Consolidated Edison Co. of N. Y. 3½% due 1950.....	35,000,000	7,500,000	700,000	131,250	196,875	192,638
5/25/36.....	Brooklyn Edison Co., Inc. 3½% due 1966.....	55,000,000	15,000,000	1,100,000	206,250	337,500	326,550
7/24/36.....	N. Y. Edison Co., Inc. 3½% due 1966.....	30,000,000	8,000,000	600,000	(1)	220,000	200,445
7/22/37.....	Westchester Lighting Co. 3½% due 1967.....	25,000,000	8,000,000	500,000	93,750	163,750	162,084
1/13/38.....	Consolidated Edison Co. of N. Y. 3½% due 1958.....	30,000,000	6,285,000	600,000	112,500	167,494	153,579
4/21/38.....	Consolidated Edison Co. of N. Y. 3½% due 1948.....	60,000,000	9,000,000	1,050,000	150,000	217,500	203,410
8/12/38.....	N. Y. Steam Corp. 3½% due 1963.....	27,982,000	5,666,000	552,640	104,332	154,510	140,105
Totals.....	.....	377,982,000	91,801,000	7,322,140	1,186,182	2,123,816	2,010,745

¹ Issue subunderwritten.

Source: Data supplied by Morgan Stanley & Co. Incorporated.

SUPPLEMENTAL DATA

(The following letter is included at this point in connection with testimony, supra, p. 11844.)

UNITED STATES SENATE,
COMMITTEE ON EDUCATION AND LABOR,
247-C Senate Office Bldg., January 10, 1940.

HON. JOSEPH C. O'MAHONEY,
United States Senate, Washington, D. C.

MY DEAR SENATOR O'MAHONEY: During my testimony before the Temporary National Economic Committee on December 15, 1939, the question was raised as to whether the American Telephone and Telegraph Company has taken exception to any of the facts pertaining to which I testified. Limitations of time did not permit me to go extensively into the position taken by the A. T. & T., and you requested me to communicate with you in regard to this matter.

I have again considered this subject and have come to the conclusion that the A. T. & T. has at no time taken exception to the facts presented in my testimony. My book, *A. T. & T., The Story of Industrial Conquest*, has been out since October 17, 1939, and I have heard not a word from the company, which indicates that the company has been unable to take exception to the facts therein stated.

I testified to the same facts before the Federal Communications Commission on June 23, 1937. At that time my report on the control of the American Telephone and Telegraph Company was placed into the record of Special Investigation Docket No. 1 of the Commission. The Bell System submitted a pamphlet in criticism of my testimony on this report, but a perusal of their comments indicates that they do not take exception to the facts, but differ on their conclusions.

When the Federal Communications Commission issued the Proposed Report on the Telephone Investigation on April 1, 1938, A. T. & T. submitted to the Commission a *brief* in criticism of this report. There, too, the company was unable to take exception to the facts, but differed in their interpretations.

As I endeavored not to give opinions during my testimony, but to confine myself to a statement of the facts, I am justified in saying, therefore, that the company has taken no exception to the accuracy of the facts revealed in my testimony.

I am at your service to supply any further information you desire.

Very truly yours,

(Signed) N. R. DANIELIAN.
(Typed) N. R. DANIELIAN.

(The following information was submitted by Mr. Dean in connection with Mr. Gordon's testimony, supra, p. 11949.)

EXTRACT FROM "MEMORANDUM OF CORRECTIONS" SUBMITTED BY ARTHUR H. DEAN OF SULLIVAN & CROMWELL, COUNSEL TO ALBERT H. GORDON, TO THE INVESTMENT BANKING SECTION, MONOPOLY STUDY, SECURITIES & EXCHANGE COMMISSION

* * * * *

What happened was that a group of bankers headed by J. P. Morgan & Co. had advanced \$10,000,000 to the old firm of Kidder, Peabody & Co. of which neither Webster, Hovey nor Gordon (partners in the present firm of Kidder, Peabody & Co.) were partners. As a condition to the advancing of the \$10,000,000 the banking syndicate had insisted that the partners in the old firm raise an additional \$5,000,000 as capital. Due to a very substantial decline in the value of the securities held by the old firm, it was obvious that they needed still more working capital. An arrangement was thereby made whereby a new firm was formed with approximately \$5,000,000 of new capital. All of the assets of the

old firm had been pledged as collateral for the agreement with the banking syndicate. The new firm selected the assets and liabilities which it wished to take over and the other assets and liabilities were liquidated from time to time by the banking syndicate.

(The following letter is included at this point in connection with Mr. Whitney's testimony, *supra*.)

[Copy]

APRIL 30th, 1935-p.

Mr. WILLIAM C. POTTER,
Chairman, Guaranty Trust Company of New York,
140 Broadway, New York City.

DEAR MR. POTTER: The Atlantic Coast Line Railroad Company has agreed to sell to Brown, Harriman & Co., Incorporated, and Edward B. Smith & Co. \$12,000,000. Ten-Year Collateral Trust Notes, secured by \$25,000,000. of our General Unified 4½% Bonds.

At the suggestion of Mr. George Whitney, we have designated the Guaranty Trust Company of New York to act as Trustee of this indenture.

If it is agreeable to your Company to act as Trustee, will you kindly advise me the name of the officer of your Company with whom Mr. H. L. Borden, our Vice-President, should communicate to arrange the necessary details.

Yours very truly,

(Original Signed by Mr. Delano *Chairman*.)

(The following letters were submitted by Mr. Whitney in connection with his testimony, *supra*.)

[Copy]

J. P. MORGAN & Co.
Wall St. corner Broad, New York

NEW YORK, January 25, 1940.

HONORABLE LEON HENDERSON,
Securities and Exchange Commission,
Washington, D. C.

DEAR MR. HENDERSON: At the end of the afternoon session on Tuesday, December 19th, you asked me a question reading as follows: "Leaving aside for a minute the legal phases, or leaving them aside entirely, a number of those functions you performed in this switchover period are functions which are performed by underwriting houses, is that not correct?" I have now had an opportunity to read the testimony, including your further questions and, pursuant to your suggestion contained in your last question, I am glad to submit an amplification of my answers, which I have made as brief as possible. I should like to have this placed in the record if agreeable to the Committee.

The questions which you ask cannot be answered categorically "Yes" or "No," nor can they be answered without regard to the purpose and effect of Section 21 (a) of the Banking Act of 1933.

The functions of the banker in this country and so far as I know in all other countries, have been manifold. They have, of course, acted as depositaries for the safekeeping of their clients' balances; they have assisted in the development of business and industry through the making of loans; they have aided commerce between the nations in the discount and negotiation of bills; they have acted as financial advisers to their clients, thus assisting in the orderly and successful conduct of their clients' business and personal affairs, and they have assisted in providing industry with capital through the making of loans and, except in this country since the Banking Act of 1933, through the underwriting and flotation of security issues. These are among the historic functions of a banker. Some of them, however, are not necessarily peculiar to a banker. Investment bankers, dealers, and brokers also give financial advice and perform other functions helpful in the conduct of their clients' affairs.

Section 21 (a) of the Banking Act of 1933 prevents any person engaged in the business of issuing, underwriting, selling, or distributing securities from

engaging at the same time in the business of receiving deposits. This section of the Act became effective June 16, 1934, and, as I have previously testified, from that date our firm ceased in any manner to engage in its former business of underwriting, issuing, selling, or distributing securities. The language of that section of the Act is clear, even to a layman like me. However, we of course consulted counsel, and you have in evidence their opinion of May 29, 1934. Although not asked for by your investigators, I am enclosing herewith a further opinion of our counsel dated September 13, 1935, having to do with the Morgan Stanley & Co. Incorporated phase of the Banking Act question, and request that the opinion be received in evidence, as I believe it makes more clear how complete the segregation was and is between our firm and Morgan Stanley & Co. Incorporated.

As I stated several times in my testimony, we have given financial advice to our clients since the effective date of the Banking Act. As a part of such advice we have recommended to our clients the names of underwriting houses which we have felt were best equipped to handle their business for them. We feel that the giving of such advice is part of the essential functions of a banker. These functions may be likened to those of the family physician. It is part of the banker's job to look after the day to day needs of his customers, and to know when a capital operation is needed and when to call in a specialist, and to be able to recommend a good one for the work. This was particularly necessary during what you refer to as the "transition period." The investment banking business had been torn to pieces by the Banking Act, established relations had been disrupted, and existing organizations had disintegrated. Few new organizations were well known. Few had adequate capital or experience. It was very necessary for the borrowing companies, greatly in the public interest, and essential to the reopening of the capital markets, which were at a dead stop, that bankers should be prepared to give the best advice they could to their customers to help them find and establish satisfactory relations with investment houses of issue. Throughout the period and today every commercial bank of any size in this country has performed and is performing this service in greater or less degree as a part of its daily routine. This does not mean, however, that only a banker is entitled to perform such service. Investment bankers are entitled to perform it, and they are doing it more and more, as they become established and better known to borrowing companies, who now less frequently seek the intervention of banks of deposit. It must, of course, be apparent to you that the giving of such advice by a banker to his client in no way puts that banker in the business of issuing, underwriting, selling, or distributing securities.

The purpose of Section 21 of the Banking Act of 1933 was to place the depositors' fund beyond the risks of the underwriting business and I am certain that my firm has lived up to the spirit, as of course it has to the letter, of that law. I have always felt that the complete elimination of banks of deposit from the business of entering into any commitments for the underwriting of private investment securities—leaving aside the question of the elimination of banks of deposit from the business of distributing securities to investors—has not been in the interest of the capital markets and, in turn, of the American economy. A commitment to take up and pay for sound securities in amounts bearing a reasonable relationship to resources may well be far more conservative, and present less risk to depositors' funds—or even capital funds of the institution, which bear the whole risk to the extent of such funds—than other types of less sound and less liquid commitments.

Yours very truly,

/S/ GEORGE WHITNEY.

DAVIS POLK WARDWELL GARDINER & REED

(STETSON JENNINGS & RUSSELL.)

15 Broad Street, New York

SEPTEMBER 13, 1935.

MESSRS. J. P. MORGAN & Co.,
23 Wall Street,
New York, N. Y.

DEAR SIRs: We have given careful consideration, from your point of view, to the incorporation and organization of Morgan Stanley & Co., Inc., and take

pleasure in giving to you our opinion on certain questions in connection therewith which relate to your firm.

Morgan Stanley & Co., Inc. is a corporation formed pursuant to Article Two of the Stock Corporation Law of the State of New York. Its original Certificate of Incorporation was filed in the office of the Secretary of State on September 5, 1935, and its first meeting of incorporators and its first meeting of stockholders were held September 12, 1935. Its Board of Directors consists of Messrs. Harold Stanley, William Ewing, Perry E. Hall, Edward H. York, Jr., and John M. Young. The officers of the Corporation are at present: Mr. Harold Stanley, President; Mr. William Ewing, Vice-President; Mr. Henry S. Morgan, Treasurer and Secretary; Mr. Perry E. Hall, Vice-President; Mr. Edward H. York, Jr., Vice-President; Mr. John M. Young, Vice-President; Mr. Allen N. Jones, Vice-President; and Mr. Archer M. Vandervoort, Assistant Secretary and Assistant Treasurer. Mr. Harold Stanley, Mr. William Ewing, and Mr. Henry S. Morgan have been, until their recent resignations, partners of J. P. Morgan & Co. Mr. Perry E. Hall and Mr. Edward H. York, Jr., have, until their recent resignations, held an interest in the business done by J. P. Morgan & Co. in Philadelphia under the firm name of Drexel & Co. Mr. John M. Young, Mr. Allen N. Jones, and Mr. Archer M. Vandervoort have been, until their recent resignations, employees of J. P. Morgan & Co.

The Certificate of Incorporation of Morgan Stanley & Co., Inc. provides for Preferred and Common Stock. The authorized Preferred Stock consists of 100,000 shares of the par value of \$100 each, which shares entitle the holders thereof to receive dividends at the rate of 6% per annum, subject to various conditions and limitations more fully set forth in the Certificate of Incorporation. The holders of the Preferred Stock have no right to vote at any meetings of stockholders except as provided generally by the Stock Corporation Law of New York, and particularly the holders of the Preferred Stock have no right to vote for directors of the Corporation. Seventy thousand shares of the Preferred Stock have been issued for a consideration aggregating \$7,000,000 to certain of the individuals above named, and also to a few individual partners of J. P. Morgan & Co. The amount of such stock which has been taken by the individual partners of J. P. Morgan & Co. comprises the greater part of the Preferred Shares issued.

The authorized Common Stock consists of 50,000 shares having a par value of \$5 each, all of which shares have been issued for a consideration aggregating \$500,000 to individuals who are directors or officers of Morgan Stanley & Co., Inc.

The above named directors and officers of Morgan Stanley & Co., Inc. have not only resigned from the positions formerly held by them as partners or employees of J. P. Morgan & Co., but they have fully divorced themselves from the business done by J. P. Morgan & Co. except in one or two special instances where, for a few months only, work undertaken prior to the organization of Morgan Stanley & Co., Inc. is being completed. There are no special agreements or arrangements between the two organizations, and the right to use the name "Morgan Stanley & Co., Inc." is derived from Mr. Henry S. Morgan and Mr. Harold Stanley. Morgan Stanley & Co., Inc. have opened offices at 2 Wall Street, New York City, which offices are, of course, entirely separate from the offices of J. P. Morgan & Co. at 23 Wall Street, New York City.

The general business to be carried on by Morgan Stanley & Co., Inc., is to be a securities business, and will include underwriting, issuance and sale of securities. In no case will Morgan Stanley & Co., Inc., perform such business as agents for J. P. Morgan & Co., but if it chooses Morgan Stanley & Co., Inc., may avail itself of the usual banking facilities offered by J. P. Morgan & Co., just as it may use the facilities of other banks and bankers. For example, delivery of bond issues and payment therefor may take place at the banking offices of J. P. Morgan & Co., and deliveries of bonds to purchasers by Morgan Stanley & Co., and its associates may also take place at J. P. Morgan & Co. windows. In such matters J. P. Morgan & Co. will render the same banking service to Morgan Stanley & Co., Inc. as it would render to any other investment house.

The provisions of Section 21 (a) of the Banking Act of 1933, as amended, would today bar J. P. Morgan & Co. from carrying on the same general business as that in which Morgan Stanley & Co., Inc. plans to engage. This section provides in part as follows:

"SEC. 21. (a) After the expiration of one year after the date of enactment of this Act it shall be unlawful—

"(1) For any person, firm, corporation, association, business trust, or other similar organization, engaged in the business of issuing, underwriting, selling, or distributing, at wholesale or retail, or through syndicate participation, stocks, bonds, debentures, notes, or other securities, to engage at the same time to any extent whatever in the business of receiving deposits subject to check or to repayment upon presentation of a passbook, certificate of deposit, or other evidence of debt, or upon request of the depositor: *Provided*, That the provisions of this paragraph shall not prohibit national banks or State banks or trust companies (whether or not members of the Federal Reserve System) or other financial institutions or private bankers from dealing in, underwriting, purchasing, and selling investment securities to the extent permitted to national banking associations by the provisions of section 5136 of the Revised Statutes, as amended (U. S. C., title 12, sec. 24; Supp. VII, title 12, sec. 24): * * *

We are of the opinion, on the facts as summarized above, that no claim can properly or successfully be made that J. P. Morgan & Co. is violating the above prohibitions because of the fact that Morgan Stanley & Co., Inc. is engaged in the general business of issuing, underwriting, selling or distributing securities. The separate ownership of the common stock of Morgan Stanley & Co., Inc., its completely separate Board of Directors, and the absence of any interlocking between its officers and employes and the partners and employes of J. P. Morgan & Co., all demonstrate the complete separation of the two organizations and rebut any contention that the separate existence of Morgan Stanley & Co., Inc., should be disregarded as a "corporate fiction". Ownership of preferred stock of the type here involved does not result in any prohibited participation by the preferred stockholders, or by a firm to which such stockholders may belong, in the business of the corporation issuing the preferred stock. No contention that Morgan Stanley & Co., Inc. is an agent or instrumentality of J. P. Morgan & Co. can be successfully advanced inasmuch as the businesses and activities of the two organizations are separate, and the affairs of Morgan Stanley & Co., Inc. are controlled by an independent Board of Directors and officers, left to their own initiative and responsibility in respect of each transaction as it arises.

The Securities Act of 1933, as amended, imposes in Section 15 thereof certain liabilities upon persons who control persons who may become liable under Section 11 or Section 12 of said Act. Because of the type of business in which Morgan Stanley & Co., Inc. plans to engage it is possible that that Corporation may at times become subject to such liabilities. In our opinion neither J. P. Morgan & Co. nor any of the partners thereof can be held, on the facts above summarized, to "control" Morgan Stanley & Co., Inc., within the meaning of Section 15 of said Act, and neither the firm nor any of the partners thereof can be held liable therefor.

Very truly yours,

[S] DAVIS, POLK, WARDWELL, GARDINER & REED.

The following letters are included at this point in connection with Mr. Whitney's testimony, supra, pp. 12067, 12099, and 12100.

JANUARY 23, 1940.

MR. GEORGE WHITNEY,
J. P. Morgan & Co., 23 Wall Street,
New York, New York.

DEAR MR. WHITNEY: You will recall that in the hearing of December 20, 1939, there was discussion of how many companies that had formerly financed through J. P. Morgan & Co., subsequent to the organization of Morgan Stanley & Co., Incorporated, financed through some other house. In that discussion (page 256 of the record), I asked you if you would submit a memorandum to the Committee on this matter. Could I inquire whether any progress has been made on this matter.

Likewise, I find on page 268 (col. 2) that you agreed to ascertain whether the credits to Corporation No. 6 were from a loan underwritten by Morgan Stanley & Co., Incorporated and (col. 3) whether the credit to Corporation

No. 9 represented part of the proceeds of an issue underwritten by Morgan Stanley & Co., Incorporated.

May I inquire whether these matters have been ascertained.

Sincerely yours,

PETER R. NEHEMKIS, Jr.,
Special Counsel, Investment Banking Section, Monopoly Study.

LBrown:jmk

23 Wall Street, New York, January 26, 1940.

PETER R. NEHEMKIS, Jr., Esq.,
*Special Counsel, Monopoly Study, Investment Banking Section,
Securities and Exchange Commission, Washington, D. C.*

DEAR MR. NEHEMKIS: Replying to your letter of January 23rd, it had not occurred to me that any further answer was required from me in connection with the discussion to which you refer, since Mr. Stanley undertook to cover the matter in his testimony. In any event, I do not think it would be possible for me to answer the question because it involves research among figures to which I have no access.

As to Corporation No. 6, there was a credit to the account of that Corporation with us in the amount of \$18,487,500 on June 30, 1937, which was the date on which that Corporation received from underwriters the proceeds of sale of 200,000 shares of its preferred stock.

As to Corporation No. 9, I have been advised by that Corporation that during the month of January, 1938, it had a substantial cash intake, including the proceeds of an issue of securities sold to underwriters. The Corporation deposited these proceeds with various banks of deposit, among which was J. P. Morgan & Co.

Trusting this will give you the information you require, I beg to remain

Yours very truly,

GEORGE WHITNEY.

The following letters are included at this point in connection with Mr. Stanley's testimony, supra, p. 12067.

MORGAN STANLEY & Co., INCORPORATED

Two Wall Street, New York

NEW YORK, February 15, 1940.

PETER R. NEHEMKIS,
*Special Counsel, Investment Banking Section,
Monopoly Study, Securities and Exchange Commission,
Washington, D. C.*

DEAR MR. NEHEMKIS: This is in reply to your letter of January 23, 1940 to Mr. Stanley which he acknowledged while he was in Washington. Your letter refers to the discussion in the T. N. E. C. hearing of December 20, 1939 of whether "any company for which J. P. Morgan & Company was formerly principal banker * * has floated securities through some other house than Morgan Stanley & Company, Inc.?" Later in the hearing you asked for a memorandum on this subject which Mr. Stanley agreed to send you.

As Mr. Stanley tried to point out elsewhere in his testimony (particularly, he thinks, in connection with American Telephone and Telegraph financing) any question as to the scope or amount of any company's financial transactions, through any banker or handled otherwise, cannot be completely or adequately shown unless the question covers private placements as well as public offerings. The following list, which we cannot be sure is complete, has been compiled from published sources and from such data as we have available in our office, and shows the large amount of financing since September 1935 by companies for which J. P. Morgan & Co. and Drexel & Co. sold securities in the period from 1921 to 1933, in which financing Morgan Stanley & Co. Incorporated had no participation whatever.

			<i>Purchaser or Underwriter</i>
<i>1935</i>			
Sept.	\$2, 500, 000	Allentown-Bethlehem Gas Co. 1st 3¼s, 1965-----	Sold privately.
Oct.	5, 000, 000	Atlanta Gas Light Co. ¹ General 4½s, 1955-----	First Boston Corp. etc.
Nov.	1, 300, 000	Cambria & Indiana R. R. Co. 1st 3½s, 1948-----	Sold privately.
Dec.	4, 152, 000	Rochester Gas & Elec. Corp. ² General 4s, 1960-----	Sold privately.
<i>1936</i>			
March	600, 000	Savannah Gas Co. 1st 4½s, 1965-----	Sold privately.
May	25, 000, 000	Public Service El. & Gas Corp. 1st & Ref. 4¼s, 1966-----	Sold privately.
Sept.	5, 500, 000	Southern Indiana Gas & El. Co. 1st 3.35%—1961-----	Sold privately.
Sept.	400, 000	Rochester Gas & El. Corp. ² 4.8% Preferred Stock-----	First Boston Corp. etc.
Oct.	7, 000, 000	Connecticut Light & Power Co. 1st & Ref. 3½s, 1966-----	Putnam & Co. etc.
Oct.	7, 500, 000	Connecticut Light & Power Co. 20 Yr. 3½% Debs. 1956-----	Putnam & Co. etc.
Oct.	8, 589, 500	Southern Indiana Gas & El. Co. 4.8% Cum. Preferred Stock-----	Bonbright & Co. etc.
Dec.	6, 978, 000	Pennsylvania Power Co. 1st 3½s, 1961-----	Sold privately.
Dec.	10, 848, 000	Rochester Gas & El. Corp. ² General 4s, 1960-----	Sold privately.
Dec.	16, 000, 000	Connecticut Light & Power Co. 1st & Ref. 3¼s, 1966-----	Putnam & Co. etc.
<i>1937</i>			
Jan.	600, 000	Southern Indiana Gas & Elec. Co. 1st 3.35%—1961-----	Sold privately.
Feb.	3, 000, 000	Rochester Gas & El. Corp. ² General 3¼s, 1966-----	Sold privately.
March	7, 000, 000	Chicago, Burlington & Quincy R. R. Co. 2¼% Coll. Tr. Notes 1937-46--	Sold privately.
May	2, 000, 000	Pennsylvania Power Co. 1st 4s, 1961-----	Sold privately.
May	550, 000	Pennsylvania Power Co. \$6 Cum. Preferred Stock-----	Sold privately.
May	600, 000	Southern Indiana Gas & El. Corp. 1st 3.35%—1961-----	Sold privately.
August	683, 000	Chicago & Western Indiana R. R. 1st & Ref. 4¼s, 1962-----	Sold privately.
Sept.	2, 500, 000	Central Hudson Gas & El. Corp. 1st & Ref. 3½s, 1967-----	Sold privately.
Sept.	3, 000, 000	Rochester Gas & El. Corp. ² General 3¼s, 1967-----	First Boston Corp. etc.
Sept.	875, 000	Atlanta Gas Light Co. ¹ General 4½s, 1955-----	Chandler & Co. etc.
<i>1938</i>			
Jan.	20, 000, 000	New England Tel. & Tel. Co. 3¼s, 1968-----	Sold privately.
March	800, 000	Southern Indiana Gas & El. Co. 1st 3½s, 1961-----	Sold privately.
May	1, 000, 000	Public Service El. & Gas Co. 1st & Ref. 3¼s, 1966-----	Sold privately.
July	1, 657, 000	Rochester Gas & El. Corp. ² Gen. 3½s, 1967-----	First Boston Corp. etc.
August	2, 375, 000	Buffalo Niagara Electric Corp. Gen. & Ref. 3¼s, 1968-----	Sold privately.
Dec.	15, 000, 000	Connecticut Light & Power Corp. 1st & ref. 3½s, 1968-----	Sold privately.
Dec.	15, 000, 000	International Tel. & Tel. Co. 4½% Notes—1948-----	Sold privately.

					<i>Purchaser or Underwriter</i>
1938					
Dec.	4, 200, 000	Pennsylvania Power Co.	\$5	Bonbright & Co. etc.	
		Preferred Stock.			
Dec.	30, 000, 000	Chesapeake & Ohio Railroad Co.		Halsey, Stuart & Co.	
		Ref. & Imp. 3 $\frac{1}{8}$ s, 1963.		etc.	
1939					
Feb.	12, 000, 000	Cincinnati Union Terminal Co.		Lehman Brothers, etc.	
		1st 3 $\frac{3}{8}$ s, 1969.			
March	240, 000	Allentown-Bethlehem Gas Co.		Sold privately.	
		1st 3 $\frac{3}{8}$ s, 1965.			
May	400, 000	Jacksonville Terminal Co.	Ref.	First Boston Corp. etc.	
		& Ext. 4 $\frac{1}{8}$ s, 1967.			
June	8, 323, 000	Rochester Gas & El. Corp.(?)		First Boston Corp. etc.	
		General 3 $\frac{3}{8}$ s, 1969.			
August	7, 000, 000	Terminal Railroad Assn. of St. Louis.		Halsey, Stuart & Co.	
		Ref. & Imp. 3 $\frac{3}{8}$ s, 1974.		etc.	
October	75, 000, 000	New York Telephone Co.	Ref.	Sold privately.	
		3 $\frac{3}{8}$ s, 1964.			

Very truly yours,

MORGAN STANLEY & CO. INCORPORATED
E. H. YORK, JR., *Vice President.*

[Copy]

E. H. YORK, Esq.,

NEW YORK, March 4, 1940.

Morgan Stanley & Co., Incorporated,

Two Wall Street, New York, New York.

DEAR MR. YORK: The data contained in your letter of February 15th in reply to mine of January 23rd have been examined and we have the following questions in connection therewith:

1. The list submitted covers companies for which J. P. Morgan & Co. and Drexel & Co. sold securities. The request was for issues of companies for which J. P. Morgan & Co. and Drexel & Co. were formerly *principal bankers*.

2. The list submitted covers private placements, whereas the request was for publicly offered issues.

3. The list submitted covers issues of companies for which J. P. Morgan & Co. and Drexel & Co. had ceased to be principal bankers prior to June 16, 1934, the date when J. P. Morgan & Co. and Drexel & Co. retired from the underwriting business.

4. The list submitted covers issues sold by competitive bid, a type of purchase and sale which both J. P. Morgan & Co. and Morgan Stanley & Co. Incorporated voluntarily have refrained from underwriting.

5. The list submitted contains an issue in the nature of a bank loan, the major portion of which was taken by the Reconstruction Finance Corporation.

In view of the foregoing, I do not believe that the data which you have submitted is responsive to the question which was put to Mr. Whitney and Mr. Stanley. The intent of my question—and I believe that Mr. Stanley clearly understood its intent at the time—was for a list of *publicly offered* issues of companies for whom J. P. Morgan & Co. and Drexel & Co. were *principal bankers* at the time they retired from the underwriting business on June 16, 1934, whose *publicly offered* securities when not sold by competitive bid, were underwritten by an investment house other than Morgan Stanley & Co. Incorporated.

I feel that the proper procedure for answering the question put to Mr. Stanley at the hearing would be the preparation of (1) a list of issues which conforms to the terms of the question, and (2) a supplementary list together with any explanations or data he thinks necessary to qualify his answer.

I think upon further reflection you will agree that the list which you have supplied is misleading and not completely responsive to the question. I am, therefore, not disposed to offer it for the record in its present form.

If there are any questions in your mind, I shall be glad to hear from you.

Sincerely yours,

PETER R. NEHEMKIS, JR.,
Special Counsel, Investment Banking Section, Monopoly Study.

¹ Company acquired by Southern Cities Public Service Co. from Georgia Power Co. in May 1929.

² Control of company acquired by Ellis L. Phillips from New York Central Railroad in June 1928.

[Copy]

MORGAN STANLEY & Co., INCORPORATED
Two Wall Street, New York

MARCH 12, 1940.

MR. PETER R. NEHEMKIS, JR.,
*Special Counsel, Investment Banking Section, Monopoly Study,
Securities and Exchange Commission, Washington, D. C.*

DEAR MR. NEHEMKIS: This is to acknowledge your letter of March 4th addressed to Mr. York, who wrote you on February 15th while I was away.

It is quite true that your question when I was testifying referred to companies for which J. P. Morgan & Co. and Drexel & Co. were "formerly principal bankers" and that the list we furnished covers companies for which those firms "sold securities." However, I am not sure just what distinction you are drawing between selling securities and being principal bankers, and I do not know how to make up a list based on such a distinction. In your letter of January 23rd you ask for a memorandum of concerns "that had formerly financed through J. P. Morgan & Co."

You will recall in column one of page 256 of the testimony you were asking Mr. Whitney about accounts of J. P. Morgan & Co. and he asked what you meant, to which you replied, "any form of financing, bonds, notes, stocks." I didn't realize at the time that you were differentiating between the questions asked Mr. Whitney regarding accounts in column one on page 256 and the question you asked of Mr. Whitney in column three of the same page about principal bankers; nor do I know today what distinction you desire to draw.

It is quite true that your question to me on page 256 of the testimony referred to flotations of securities, which might or might not be taken to mean public offerings, but in my answer I mentioned the Connecticut Light & Power Company, some of the transactions of which were private placements through Putnam & Co., etc., and in column one of page 257 I specifically pointed out that the utility companies for which we had managed issues had made substantial amounts of sales direct by private placements to institutions.

Your third point refers to companies for which J. P. Morgan & Co. and Drexel & Co. at one time had been bankers and had ceased to be bankers prior to June 16, 1934. There is no reference to this in the testimony nor in your letter of January 23rd asking us for a memorandum. It is an entirely new thought brought up perhaps by the fact that our letter of February 15th included two such companies in the interest of completeness with, however, footnotes indicating changes in ownership in the case of these two companies. That such changes have taken place does not alter the fact that relations formerly existed. The general tenor of your question and your specific question to Mr. Whitney in column one on page 256 refers to any form of financing—bonds, notes or stocks—at any time, and your question to me in column three on the same page has reference to companies for which J. P. Morgan & Co. was formerly principal banker without limiting the time.

Your fourth point mentions cases of competitive bidding of which there are two in the list, but as stated in our letter of transmittal, the list may not be complete. Certainly it did not include a large number of equipment trust issues which were bid for competitively during the period mentioned.

Referring to your fifth point, the International Telephone and Telegraph issue was, we have ascertained, a bank loan and was included in our list through a misunderstanding of its nature.

In view of the foregoing I trust that you will agree that the list furnished—with the International Telephone transaction eliminated—is a proper reply to the question on page 256 which was repeated in your letter of January 23rd. I should prefer not to follow your suggestion of furnishing two lists, partly because I think if your question was intended to apply only to public issues it is too narrow a question. Bankers received commissions for services in connection with some of the private placements contained in our letter of February 15th—such cases were obviously handled "through some other house." No commissions were paid on other private sales in the list, but complete information on this point for all issues in the list is not available. I submit it is impossible to obtain a correct picture of financing done by any company without consideration of issues privately placed whether or not bankers received a commission for such private placement.

Sincerely yours,

(signed) HAROLD STANLEY.

The following data is included at this point as a supplement to "Exhibit No. 1768-2," Item 2; supra, p. 12298 at p. 12301.

J. P. MORGAN & Co.

Wall St. corner Broad, New York

NEW YORK, October 26, 1939.

PETER R. NEHEMKIS, JR., Esq.,

Special Counsel, Investment Banking Section, Monopoly Study,

Securities and Exchange Commission, Washington, D. C.

DEAR MR. NEHEMKIS: Referring to the schedule marked Item 2 enclosed to you with our letter of March 15, 1939, setting forth the names of the corporations or other institutions (including eleemosynary institutions) of which any partner of our firm is a director or trustee, and to your request to Mr. Whitney and Mr. Alexander last week that you be advised of any changes which have occurred, we beg to enclose herewith a schedule marked Item 2 revised as of this date.

Yours very truly,

J. P. MORGAN & Co.

Enclosure.

ITEM 2

Mr. J. P. Morgan

Associated Parishes of the Episcopal Church
Church Hymnal Corporation
Church Life Insurance Corporation
Church Pension Fund
Church Properties Fire Insurance Company
Cooper Union.
Discount Corporation
Flintlock Realty Company
John and Mary R. Markle Foundation
Metropolitan Museum of Art
Metropolitan Opera & Real Estate Company
Morgan Grenfell & Co., Limited
Morgan Memorial Park, Glen Cove, N. Y.
New York Hospital—Cornell Medical College Ass'n
New York Public Library
Parish Securities Corporation
Pierpont Morgan Library
Pullman Company
Pullman Incorporated
St. John's Church of Lattingtown, L. I., N. Y.
United States Steel Corporation

Mr. Thomas W. Lamont

The Academy of Political Science
American School of Classical Studies at Athens
Atchison, Topeka & Santa Fe Railway Company
The Carnegie Foundation for the Advancement of Teaching
Guaranty Trust Company of New York
Institute of International Education
International Agricultural Corporation
International Committee of Bankers on Mexico
Italy-America Society
Lamont, Corliss and Company
The John and Mary R. Markle Foundation
Metropolitan Museum of Art
Phillips Exeter Academy
Pilgrims of the United States
St. Luke's International Medical Center American Council
Santa Fe Pacific Railroad Company
Southwestern Construction Company
United States Steel Corporation

Mr. Junius S. Morgan

The American Museum of Natural History
 American Red Cross, New York Chapter
 The Chapin School, Ltd.
 Flintlock Realty Co.
 Frick Collection, The
 General Motors Corporation
 Greater New York Fund, Inc., The
 Harvard College
 Harvard Fund Council
 John and Mary R. Markle Foundation
 Morgan Memorial Park
 New York Public Library
 New York Trade School
 Pierpont Morgan Library
 Police Relief Association of Nassau County
 Seamen's Church Institute of New York
 United States Steel Corporation

Mr. George Whitney

Alaska Development & Mineral Company
 Alaska Steamship Company
 Bee Rock Corporation
 Braden Copper Company
 Consolidated Edison Company of New York
 Continental Oil Company
 Corners Corporation, The
 Doctors Hospital
 General Motors Corporation
 Guaranty Trust Company of New York
 Kennecott Copper Corporation
 Nassau Hospital
 New York Central Railroad
 Pullman Company
 Pullman Incorporated
 West Shore Railroad Company

Mr. R. C. Leffingwell

Carnegie Corporation of New York
 Community Service Society of New York
 Council on Foreign Relations, Inc.

Mr. F. D. Bartow

American Radiator & Standard Sanitary Corporation
 Discount Corporation
 General Electric Company
 Hospital Council of Greater New York
 Greater New York Fund, Inc.
 International General Electric Company
 Johns-Manville Corporation
 Roosevelt Hospital
 United Hospital Fund of New York

Mr. A. M. Anderson

International Telephone & Telegraph Corporation
 Japan Society
 New York Botanical Garden
 New York Trust Company
 Northern Pacific Railway Company
 United States Guarantee Company

Mr. Thomas S. Lamont

Beech Corporation
 Community Service Society of New York
 Continental Oil Company
 Edgewater Creche
 North British & Mercantile Insurance Co.
 Phelps Dodge Corporation
 Pierpont Corporation
 Texas Gulf Sulphur Company

Mr. H. P. Davison

American Brake Shoe and Foundry Company
American Museum of Natural History
Boys' Club of New York, The
Car & General Insurance Corp. Ltd. (U. S. Branch)
856 Fifth Avenue Corporation
Montgomery Ward & Co.
New York Trust Company
Peacock Corporation
Peacock Point Corporation
Provident Fire Insurance Company
Royal Exchange Assurance of London (U. S. Branch)
Standard Brands Incorporated
State Assurance Company

Mr. Edward Hopkinson, Jr.

The Baldwin Locomotive Works and certain of its subsidiaries
Frankford & Southwark Philadelphia City Passenger Railroad Company
The Free Library of Philadelphia
Insurance Company of North America and certain of its subsidiaries
Keystone Watch Case Corporation and subsidiary
John D. Lankenau Fund (Lankenau Hospital)
Pennsylvania Fire Insurance Company
Pennsylvania Institution for the Instruction of the Blind
Philadelphia Chamber of Commerce
The Philadelphia Saving Fund Society
Reading Company
Second & Third Street Passenger Railway Company
University of Pennsylvania
Wistar Institute Fund

Mr. Charles D. Dickey

Beaver Coal Corporation
Estate of Bradish Johnson Inc.
General Steel Castings Corporation
Lumbermens Insurance Co.
Northeast Harbor Water Company (Northeast Harbor, Maine)
Philadelphia Contributionship for Insuring Houses from Loss by Fire
Philadelphia National Insurance Co.
St. Paul's School, Concord, New Hampshire
Sharp & Dohme, Incorporated
Stonega Coke & Coal Company
Virginia Coal & Iron Company
Western Saving Fund Society of Philadelphia

Mr. Henry C. Alexander

Johns Manville Corporation
Legal Aid Society

Mr. W. A. Mitchell

Associated Dry Goods Corporation
Bankers Association for Foreign Trade
Buxton School
Hahne & Company, Inc.
Lord & Taylor
James McCreery & Co.

The following letters are included at this point in connection with testimony, *supra*, p. 12096.

NOVEMBER 15, 1939.

HENRY C. ALEXANDER, Esq.,

*Messrs. J. P. Morgan & Co., 23 Wall Street,
New York, New York.*

DEAR MR. ALEXANDER: This will acknowledge receipt of your letter of November 13, 1939, in response to my communication of October 12, 1939.

The information which you were good enough to make available is not in sufficient detail for our requirements. Accordingly, I should very much appreciate

your furnishing me with the answers to the following questions for each of the security issues enumerated on page 2 of my letter of October 12, 1939:

1. The name of the partner or partners of your firm present at the meeting of the Board of Directors which authorized the issue.

2. Whether the partner or partners participated in the discussion with respect to the proposed offering.

3. Whether the partner or partners present at such meetings (a) voted on the proposed offering, or (b) refrained from voting on the proposed offering.

May I suggest that the information be set forth in the following tabular form:

Name of Corporation	Name of Security Issue	Partner or Partners Present	Partner Participated in Discussion (Answer "Yes" or "No")	Action of Partner	
				Voted	Refrained

Sincerely yours,

PETER R. NEHEMKIS, Jr.,

Special Counsel, Investment Banking Section, Monopoly Study.

l'RNehemkis: ok.

J. P. MORGAN & Co.

Wall St. corner Broad, New York

NEW YORK, December 7, 1939.

PETER R. NEHEMKIS, Jr., Esq.,

*Special Counsel, Monopoly Study, Investment Banking Section,
Securities and Exchange Commission, Washington, D. C.*

DEAR MR. NEHEMKIS: Referring to your letter of November 15, 1939, I have tried to comply with your request for further details in answer to your inquiry of October 12, 1939, and am setting forth below the information which I have obtained. However, I am now not entirely certain just what you intend your inquiry to cover. In your letter of October 12th on this subject you referred only to the action of the directors in authorizing the transactions with Morgan Stanley & Co. Incorporated while in your letter of November 15, 1939, you refer to the action of the directors in authorizing the issue and offering of the securities. You will appreciate that the two things are not the same. As I said to you when we discussed the subject in your office, a director might participate in the discussion and vote upon the advisability of issuing securities and upon the character, terms, and amount of the securities, and at the same time refrain from discussing and voting upon the making of the underwriting arrangements.

In none of the situations about which you have inquired do the minutes, so far as I have been able to ascertain, indicate that the directors who are partners in J. P. Morgan & Co. refrained from discussing and voting upon the advisability of issuing the securities or upon the character, terms, and amount thereof. On the contrary, the best recollection of those directors is that they participated in the deliberations and in the voting upon such matters. I think, therefore, that I need attempt to cover in detail only the question whether the directors refrained from discussing and voting upon the underwriting arrangements with Morgan Stanley & Co. Incorporated. I really covered this phase in my letter of November 13, 1939, but will here give you more details.

In view of what I have said above and in view of some of the comments below, you will appreciate that it is difficult, if not impossible, to put the information into the tabular form which you have suggested but I trust that this will not unduly complicate the matter for you.

1. *Consolidated Edison Company of New York, Inc. \$35,000,000 3¼% Debentures due 1946 and \$35,000,000 3½% Debentures due 1956.*—The Board of Trustees at a meeting on December 23, 1935, at which Mr. Whitney was present, authorized the Chairman to continue negotiations for the sale of debentures to underwriters. On April 6, 1936, at a meeting at which Mr. Whitney was present, the Board of Trustees authorized the underwriting agreement with Morgan Stanley & Co. Incorporated and the minutes do not indicate, nor does Mr. Whitney recall that he refrained from discussing or voting upon the authorization.

2. *Consolidated Edison Company of New York, Inc. \$30,000,000 3½% Debentures due 1958.*—Because of a protracted illness, Mr. Whitney was not present at the several meetings of the Board of Trustees or Executive Committee at which the issuance and sale of the Debentures were considered, nor was he present at the meeting at which the underwriting agreement with Morgan Stanley & Co. Incorporated was finally authorized.

3. *Consolidated Edison Company of New York, Inc. \$60,000,000 3½% Debentures due 1948.*—The Board of Trustees at a meeting on February 28, 1938, at which Mr. Whitney was present, approved in principle the issuance of debentures and authorized the Chairman to negotiate with underwriters. Mr. Whitney was not present at the meetings of the Board of Trustees at which the underwriting agreement with Morgan Stanley & Co. Incorporated was finally authorized and ratified.

4. *The New York Edison Company, Inc. \$55,000,000 3¼% Bonds due 1965.*—At meetings held on December 23, 1935, at which Mr. Whitney was present, the Board of Directors of The New York Edison Company, Inc. and the Board of Trustees of Consolidated Gas Company approved in principle the issuance and sale of new bonds by New York Edison Company, Inc. to underwriters. Mr. Whitney was not present at the meeting at which the underwriting agreement with Morgan Stanley & Co. Incorporated was finally authorized.

5. *The New York Edison Company, Inc. \$30,000,000 3¼% Bonds due 1966.*—The Board of Trustees of Consolidated Edison Company of New York, Inc. at a meeting on June 8, 1936, at which Mr. Whitney was present, approved in principle the issuance and sale of new bonds by The New York Edison Company, Inc. to underwriters. The Board of Directors of The New York Edison Company, Inc. at a meeting held on July 21, 1936, authorized the underwriting agreement with Morgan Stanley & Co. Incorporated. Mr. Whitney was present at the meeting and the minutes do not indicate, nor does Mr. Whitney recall, that he refrained from discussing or voting upon the authorization of the underwriting agreement.

6. *Brooklyn Edison Company, Inc. \$55,000,000 3¼% Bonds due 1966.*—Mr. Whitney was not a director of this Company.

7. *New York Steam Corporation \$27,982,000 3½% Bonds due 1963.*—Mr. Whitney was not a director of this Company. Consolidated Edison Company of New York, Inc. was a party to the underwriting agreement and the Board of Trustees of that Company at a meeting held on June 6, 1938, at which Mr. Whitney was present, approved in principle the issuance and sale of new bonds by New York Steam Corporation to underwriters and authorized the guarantee of such bonds by Consolidated Edison Company of New York, Inc. and at a meeting held on August 10, 1938, approved the underwriting agreement to which the Company was a party. Mr. Whitney was present at this meeting and the minutes do not indicate, nor does he recall, that he refrained from discussing or voting upon the authorization of the agreement.

8. *Continental Oil Company \$21,071,600 2¾% Convertible Debentures due 1948.*—The Board of Directors at a meeting held on November 25, 1938, authorized and, at a meeting held on November 28, 1938, ratified the execution of the underwriting agreement. Mr. Whitney was unable to be present at either meeting but was fully familiar with the transaction to be considered. Mr. T. S. Lamont was present at both meetings and the minutes do not indicate, nor does Mr. Lamont recall, that he refrained from discussing or voting upon the authorization of the agreement.

9. *Johns-Manville Corporation 100,000 shares of Common Stock.*—The Board of Directors at a meeting held on January 15, 1937, at which both Mr. Whitney and Mr. Bartow were present, authorized the officers to negotiate an underwriting agreement. The underwriting agreement with Morgan Stanley & Co. Incorporated was authorized at a meeting of the Board of Directors held on February 8, 1937. Mr. Whitney was unable to be present at the meeting but was fully familiar with the transaction to be considered. Mr. Bartow was present at the meeting and the minutes indicate that he refrained from voting upon the authorization of the underwriting agreement.

10. *Phelps Dodge Corporation \$20,285,000 3½% Convertible Debentures due 1952.*—The Board of Directors at a meeting held on April 26, 1937, authorized financing through the issuance of \$20,000,000 of debentures and authorized the executive officers to work out with Morgan Stanley & Co. Incorporated the terms of the issue and underwriting arrangements. Mr. T. S. Lamont was present at the meeting and the minutes do not indicate, nor does Mr. Lamont

recall, that he refrained from discussing or voting upon the proposal. The Board of Directors on May 27, 1937, authorized the issuance of the Debentures and approved the underwriting agreement with Morgan Stanley & Co. Incorporated. The minutes do not indicate, and Mr. Lamont does not recall, that he refrained from discussing or voting upon the authorization.

11. *Philadelphia Electric Company \$130,000,000 3½% Bonds due 1967.*—The Board of Directors at a meeting held on March 9, 1937, authorized the underwriting agreement with Morgan Stanley & Co. Incorporated. Mr. Hopkinson was present and the minutes indicate that he refrained from voting upon the authorization.

12. *Standard Brands Incorporated 200,000 shares of Preferred Stock.*—The Board of Directors at a meeting held on June 2, 1937, directed the presentation to the stockholders of authorizations to the President or the Treasurer to negotiate the sale of 200,000 shares of Preferred Stock to a group of underwriters which might include Morgan Stanley & Co. Incorporated. Mr. H. P. Davison was present at the meeting and the minutes do not indicate, nor does he recall, that he refrained from discussing or voting upon the proposal. The Board of Directors at a meeting held on June 21, 1937, authorized the underwriting agreement with Morgan Stanley & Co. Incorporated. Mr. H. P. Davison was present at the meeting and the minutes do not indicate, nor does he recall, that he refrained from discussing or voting upon the authorization.

Yours very truly,

HENRY C. ALEXANDER.

The following letter and document are included at this point in connection with testimony, *supra*, p. 12096.

UNITED STATES STEEL CORPORATION,
71 Broadway, New York, October 10, 1939.

PETER R. NEHEMKIS, Jr., Esq.,
*Special Counsel, Investment Banking Section, Monopoly Study,
Securities and Exchange Commission, Washington,, D. C.*

DEAR MR. NEHEMKIS: In reply to your letter of October 9th, I am enclosing herewith a copy of the minutes of the Board of Directors of United States Steel Corporation held on May 31, 1938.

Sincerely yours.

IRVING S. OLDS.
(Irving S. Olds.)

ISO:MRW
Enclosure

[To be Returned to Secretary at Close of Meeting.]

UNITED STATES STEEL CORPORATION BOARD OF DIRECTORS—NEW YORK,
MAY 31ST, 1938

MEETING MAY 31ST, 1938

The regular meeting of the Board of Directors of the United States Steel Corporation was duly held at No. 71 Broadway, in the City of New York, on Tuesday, the 31st day of May, 1938, at 12:15 o'clock P. M.

The following Directors were present:

Edward R. Stettinius, Jr.,
Sewell L. Avery,
Phillip R. Clarke,
Benjamin F. Fairless,
James A. Farrell,
William J. Filbert,
Leon Fraser,
Walter S. Gifford,

William A. Irvin,
Thomas W. Lamont,
Nathan L. Miller,
J. P. Morgan,
Junius S. Morgan,
Irving S. Olds,
George A. Sloan,
Enders M. Voorhees.

Vice President Hughes was present by request.

The Chairman of the Board, Mr. Edward R. Stettinius, Jr., occupied the Chair.

APPROVAL DIRECTORS' MINUTES APRIL 26TH AND MAY 10TH, 1938

The minutes of the previous meetings of the Board of Directors, held April 26th and May 10th, 1938, were read and considered; and, on motion, duly seconded, the following resolution was unanimously adopted:

Resolved: That the proceedings of the Board of Directors at its meetings held April 26th and May 10th, 1938, as recorded in the minutes thereof, be, and hereby the same are, approved, ratified, adopted and confirmed.

APPROVAL FINANCE COMMITTEE MINUTES APRIL 26TH TO MAY 24TH, 1938, INCLUSIVE

The Secretary submitted a summary of the proceedings of the Finance Committee at its meetings held on April 26th, May 3rd, 10th, 17th and 24th, 1938, and presented the minutes of said meetings; and, on motion, duly seconded, the following resolution was unanimously adopted:

Resolved: That the proceedings of the Finance Committee at its meetings held on April 26th, May 3d, 10th, 17th and 24th, 1938, as the same are recorded in the minutes of such meetings, be, and hereby the same are, approved, ratified, adopted and confirmed.

REGISTRATION STATEMENT ON FORM A-2—TEN YEAR DEBENTURES.

The Chairman submitted to the meeting copies of the Registration Statement on Form A-2 and Amendments Nos. 1 and 2 thereto, covering an issue of \$100,000,000 principal amount of Ten Year $3\frac{1}{4}\%$ Debentures, due June 1, 1948, of the Corporation, which Registration Statement and two amendments he stated had been filed by the Corporation with the Securities and Exchange Commission in Washington, D. C. on May 11, 1938, May 25, 1938 and May 27, 1938, respectively, pursuant to the resolutions adopted by the Board of Directors of the Corporation at its meeting on May 10, 1938.

STATEMENTS AND AMENDMENTS PRESENTED—REPORT ON INTEREST RATE AND REDEMPTION PRICES.

The Chairman reported that the Finance Committee, pursuant to said resolutions, had fixed $3\frac{1}{4}\%$ as the annual rate of interest to be borne by such Debentures and had determined the redemption prices to be the following percentages of the principal amount of the Debentures to be redeemed: To and including June 1, 1941, 103%; thereafter, to and including June 1, 1944, 102%; thereafter, to and including June 1, 1947, 101%; and thereafter, 100%.

PROPOSED INDENTURE AND UNDERWRITING AGREEMENT PRESENTED.

The Chairman also submitted to the meeting a copy of the proposed Indenture, dated as of June 1, 1938, between the Corporation and The First National Bank of the City of New York, as Trustee, under which such \$100,000,000 principal amount of Ten Year $3\frac{1}{4}\%$ Debentures are to be issued, and a copy of the proposed Underwriting Agreement, dated May 31, 1938, between the Corporation and Morgan Stanley & Co. Incorporated, acting on behalf of itself and the other underwriters named therein, covering the purchase of such issue of Debentures by the underwriters.

AMENDMENT NO. 3, NAMING PRICES, PRESENTED.

The Chairman also submitted to the meeting a copy of Amendment No. 3 to such Registration Statement, naming $98\frac{1}{4}\%$ as the price of such Debentures to the underwriters and 100% as the price of such Debentures to the public. He stated that such Amendment No. 3 would be filed with the Securities and Exchange Commission in Washington, D. C. after the conclusion of this meeting.

PROSPECTUS AND SPECIMENS OF TEMPORARY DEBENTURES PRESENTED.

The Chairman also submitted to the meeting the final amended Prospectus and a proposed form of Newspaper Prospectus both relating to such issue of Ten Year $3\frac{1}{4}\%$ Debentures, also specimens of the temporary Debentures to be issued in the first instance.

The Chairman reported that it was expected that such Registration Statement would become effective on June 1, 1938, and that the Debentures would be offered by the underwriters for sale on June 2, 1938.

After a full discussion, on motion, duly seconded, the following resolutions were unanimously adopted:

ACTION OF OFFICERS IN EXECUTING AND FILING FORM A-2 AND AMENDMENTS NOS. 1 AND 2, RATIFIED.

Resolved: That the action of the Chairman of the Board of Directors, the President and the Secretary of this Corporation, in executing in the name and for and on behalf of this Corporation, under its corporate seal, and in filing with the Securities and Exchange Commission under the Securities Act of 1933, as amended, a Registration Statement upon Form A-2, dated May 10, 1938, and Amendments Nos. 1 and 2 thereto, dated May 24, 1938, and May 27, 1938, respectively, with accompanying financial statements and schedules, exhibits and drafts of Prospectus, all as presented to this meeting and hereby approved and ordered initialled for identification and filed with the records of this Corporation, for the purpose of registering under said Securities Act an issue of \$100,000,000 principal amount of Ten Year Debentures of this Corporation, due June 1, 1948, as heretofore authorized at the meeting of the Board of Directors of this Corporation held on the 10th day of May, 1938, be, and the same hereby is, in all respects ratified, approved, confirmed and adopted; and further

ACTION OF FINANCE COMMITTEE IN FIXING INTEREST RATE AND REDEMPTION PRICES, RATIFIED. TITLE OF DEBENTURES FIXED.

Resolved: That the action of the Finance Committee of this Corporation in determining $3\frac{1}{4}\%$ as the annual rate of interest to be borne by said Debentures of this Corporation, due June 1, 1948, pursuant to the authority granted to the Finance Committee at the meeting of the Board of Directors of this Corporation held on May 10, 1938, and in fixing the redemption and sinking fund prices and in determining the period or periods to which such redemption and sinking fund prices apply, viz.: To and including June 1, 1941, 103%; thereafter, to and including June 1, 1944, 102%; thereafter, to and including June 1, 1947, 101%; and thereafter, 100%, be, and the same hereby is, in every respect ratified, approved, confirmed and adopted; and that the title of the said Debentures is hereby declared to be the "Ten Year $3\frac{1}{4}\%$ Debentures, due June 1, 1948," of this Corporation.

After a full discussion (in which Messrs. Leon Fraser and Walter S. Gifford, who are directors of The First National Bank of the City of New York, and Messrs. J. P. Morgan, Thomas W. Lamont and Junius S. Morgan, who are members of the firm of J. P. Morgan & Co., which firm is named in the below mentioned Indenture as paying agent, sinking fund agent and bond registrar, did not participate) and upon motion duly made, seconded and unanimously carried (Messrs. Leon Fraser, Walter S. Gifford, J. P. Morgan, Thomas W. Lamont and Junius S. Morgan not voting), it was

OFFICERS AUTHORIZED TO EXECUTE INDENTURE

Resolved: That the Chairman of the Board of Directors, or the Chairman of the Finance Committee, or the President or any Vice President of this Corporation, for and in its name and as its corporate act and deed, be, and hereby he is, authorized to execute, acknowledge and deliver, under the corporate seal of this Corporation, attested by its Secretary or any Assistant Secretary, an Indenture between this Corporation and The First National Bank of the City of New York, as Trustees, dated as of June 1, 1938, covering said issue of \$100,000,000 principal amount of Ten Year $3\frac{1}{4}\%$ Debentures, due June 1, 1948, of this Corporation, in the form or substantially in the form of the Indenture presented to this meeting and hereby approved and ordered initialled for identification and filed with the records of this Corporation; and further

OFFICERS AUTHORIZED TO SIGN AND DELIVER DEBENTURES

Resolved: That the President or any Vice President of this Corporation, for and in its name and as its corporate act and deed, be, and hereby he is, authorized, upon the execution and delivery of said Indenture, to sign said Ten Year 3¼% Debentures, due June 1, 1948, of this Corporation in the aggregate principal amount of \$100,000,000 and, pursuant to the provisions of Article Second of said Indenture, to deliver said \$100,000,000 principal amount of said Debentures, executed by this Corporation in accordance with said Indenture, to The First National Bank of the City of New York, as Trustee, and to request such Trustee to authenticate and deliver said Debentures upon the written order of this Corporation signed by the Chairman of the Board of Directors, or the Chairman of the Finance Committee, or the President or any Vice President of this Corporation, and by the Treasurer or any Assistant Treasurer of this Corporation, under its corporate seal attested by the Secretary or any Assistant Secretary of this Corporation, and that the Secretary or any Assistant Secretary of this Corporation be, and hereby he is, authorized and directed to affix the corporate seal of this Corporation to said Indenture and to said written order and to cause a facsimile of such corporate seal to be affixed to said Debentures and to attest such affixings of said seal, and that The First National Bank of the City of New York, as Trustee, be, and hereby it is, authorized and directed to authenticate and deliver such Debentures pursuant to said request and written order; and further

OFFICERS AUTHORIZED TO ISSUE, SIGN AND DELIVER TEMPORARY DEBENTURES

Resolved: That, pursuant to the provisions of Section 7 of Article First of said Indenture, until definitive Debentures are ready for delivery, the President or any Vice President of this Corporation be, and hereby he is, authorized, empowered and directed, subject to the provisions and limitations set forth in said Indenture, to execute in the name and on behalf of this Corporation, and to cause to be authenticated and delivered by the Trustee, upon a written order of this Corporation signed in the manner set forth in the preceding paragraph of these resolutions, and to issue temporary printed Debentures without coupons in the denominations of \$1,000 and \$500, exchangeable for definitive Debentures, when ready for delivery, said temporary Debentures to be in the form of the specimens presented to this meeting and hereby approved; and that the Secretary or any Assistant Secretary of this Corporation be, and hereby he is, authorized and directed to cause a facsimile of the corporate seal of this Corporation to be affixed to said temporary printed Debentures and to attest such affixings of such seal; and The First National Bank of the City of New York, as Trustee, be, and hereby it is, authorized and directed to authenticate such temporary Debentures and deliver the same in accordance with a written order of this Corporation signed in the manner set forth in the preceding paragraph of these resolutions; and further

Resolved: That the officers of this Corporation be, and hereby they are, authorized, empowered and directed to do or cause to be done all such acts and things deemed by them necessary or advisable and proper to effect the intents and purposes of the foregoing resolutions.

After consideration and discussion (in which Messrs. J. P. Morgan, Thomas W. Lamont and Junius S. Morgan did not participate) and upon motion, duly made, seconded and unanimously carried (Messrs. J. P. Morgan, Thomas W. Lamont and Junius S. Morgan not voting), it was

AUTHORIZING J. P. MORGAN & CO., PAYING AGENT, ETC. TO EMPLOY COUNSEL AND INDEMNIFYING SAID FIRM

Resolved: That when the firm of J. P. Morgan & Co. deems it expedient in connection with any of its agencies in respect of which it has been appointed or will act under the said Indenture between this Corporation and The First National Bank of the City of New York, dated as of June 1, 1938, it may apply to counsel for this Corporation, or to its own counsel, for instructions or advice, and for any action taken by it in good faith in the performance of

any of its aforesaid agencies, this Corporation will fully protect and indemnify it and hold it harmless from any and all liability; and said J. P. Morgan & Co. may employ agents or attorneys-in-fact, and shall not be answerable for the default or misconduct of any agent appointed in pursuance hereof, if such agent or attorney-in-fact shall have been selected with reasonable care; nor shall J. P. Morgan & Co. be liable for anything whatsoever in connection with any of its aforesaid agencies except for its negligence or bad faith; and, except as aforesaid, this Corporation agrees to reimburse and indemnify said J. P. Morgan & Co. for and against any liability or damage it may sustain or incur in acting as such agent.

PROPOSED UNDERWRITING AGREEMENT PRESENTED

The Chairman submitted to the meeting a proposed Underwriting Agreement, dated May 31, 1938, with an underwriting group represented by Morgan Stanley & Co. Incorporated for the purchase from this Corporation by the several purchasers named in said Underwriting Agreement of \$100,000,000 principal amount of said Ten Year 3¼% Debentures, due June 1, 1948, of this Corporation, at 98¼% of their principal amount, plus interest accrued thereon from June 1, 1938, to the date of payment and delivery.

Messrs. J. P. Morgan, Thomas W. Lamont and Junius S. Morgan advised the meeting that each of them owns a substantial amount of the outstanding 6% preferred stock (4% cumulative) of Morgan Stanley & Co. Incorporated and that, because of their ownership of such preferred stock, they preferred not to vote on any question concerning the aforesaid Underwriting Agreement.

Mr. Irving S. Olds advised the meeting that the firm of White & Case, of which he is a member, has acted as counsel for Morgan Stanley & Co. Incorporated and the other underwriters in connection with the proposed purchase of said issue of Debentures, and that accordingly he preferred not to vote on any question concerning the aforesaid Underwriting Agreement.

After consideration and discussion (in which Messrs. J. P. Morgan, Thomas W. Lamont, Junius S. Morgan and Irving S. Olds did not participate) and upon motion duly made, seconded and unanimously carried (Messrs. J. P. Morgan, Thomas W. Lamont, Junius S. Morgan and Irving S. Olds not voting), it was

UNDERWRITING AGREEMENT APPROVED—OFFICERS AUTHORIZED TO EXECUTE

Resolved: That the form of Underwriting Agreement, dated May 31, 1938, between this Corporation and Morgan Stanley & Co. Incorporated, acting severally on behalf of itself and the several Underwriters named therein, together with the exhibit thereto attached, presented to this meeting and ordered initialed for identification and filed with the records of this Corporation, covering the sale by this Corporation and the purchase by the several Underwriters of an issue of \$100,000,000 principal amount of Ten Year 3¼% Debentures, due June 1, 1948, of this Corporation, at 98¼% of their principal amount, plus interest accrued thereon from June 1, 1938 to the date of payment and delivery, be, and the same hereby is, approved, and the Chairman of the Board of Directors, or the Chairman of the Finance Committee, or the President of this Corporation be, and each hereby is, authorized and directed in the name and on behalf of this Corporation to execute such Underwriting Agreement, with such changes and modifications therein as, with the advice of counsel, the officer executing such Underwriting Agreement may deem necessary or advisable and, upon the acceptance of such Underwriting Agreement by Morgan Stanley & Co. Incorporated acting on behalf of the several Underwriters, to deliver such Underwriting Agreement as so executed; and further

Resolved: That the officers of this Corporation be, and hereby they are, authorized, empowered and directed to do or cause to be done all such acts and things deemed by them necessary or advisable and proper to effect the sale and delivery of said Debentures pursuant to such Underwriting Agreement, and otherwise to carry out the obligations of this Corporation under such Underwriting Agreement.

After a full discussion, on motion, duly seconded, the following resolutions were unanimously adopted:

OFFICERS AUTHORIZED TO EXECUTE AND FILE AMENDMENT NO. 3

Resolved: That the Chairman of the Board of Directors, the President and the Secretary of this Corporation are hereby authorized and directed in the name and for and on behalf of this Corporation, under its corporate seal, to execute and to file with the Securities and Exchange Commission Amendment No. 3, dated May 31, 1938, to said Registration Statement, in the form or substantially in the form presented to this meeting, with accompanying schedules and exhibits and the final amended Prospectus, all as presented to this meeting and hereby approved and ordered initialed for identification and filed with the records of this Corporation, such Amendment No. 3 to be so filed with the Securities and Exchange Commission after the execution and delivery of the above mentioned Indenture and Underwriting Agreement; and further

CHAIRMAN AUTHORIZED TO EXECUTE AND FILE PROSPECTUS

Resolved: That the Chairman of the Board of Directors of this Corporation is hereby authorized and directed, in the name of and on behalf of this Corporation, to execute and file with the Securities and Exchange Commission said final amended Prospectus, in the form or substantially in the form presented to this meeting and hereby approved and ordered initialed for identification and filed with the records of this Corporation; and further

NEWSPAPER PROSPECTUS APPROVED

Resolved: That the Newspaper Prospectus relating to said \$100,000,000 principal amount of Ten Year 3¼% Debentures, due June 1, 1948, of this Corporation, in the form or substantially in the form of the Newspaper Prospectus presented to this meeting, is hereby approved and ordered initialed for identification and filed with the records of this Corporation, and the Chairman of the Board of Directors of this Corporation is hereby authorized and directed to approve said Newspaper Prospectus on behalf of this Corporation and to deliver the same to Morgan Stanley & Co. Incorporated.

After a full discussion, on motion, duly seconded, the following resolutions were unanimously adopted:

AUTHORIZING QUALIFICATION OF DEBENTURES FOR SALE IN ILLINOIS

WHEREAS, this Corporation desires to qualify for sale in the State of Illinois, in accordance with the Illinois Securities Act, \$100,000,000 aggregate principal amount of its Ten Year 3¼% Debentures, due June 1, 1948; and

WHEREAS, in connection with such qualification it is necessary that this Corporation submit the following agreements, which said agreements are to remain in full force and effect so long as said \$100,000,000 aggregate principal amount of Ten Year 3¼% Debentures, due June 1, 1948, shall be offered for sale in the State of Illinois under this qualification, addressed to the Secretary of State of Illinois and executed by this Corporation as the "Issuer" of said Debentures:

a. That no changes in the methods of sale of the proposed issue as set forth in the application and exhibits will be made without first notifying the Secretary of State.

b. That no changes in the organization or capital structure of "Issuer" will be made or any escrow, contract, agreement or other document filed with or made a part of the application will be altered, amended or cancelled, without first notifying the Secretary of State.

c. That the "Issuer" will promptly notify, and furnish full information to, the Secretary of State of any action taken by any public official or public authority or any litigation or action of any kind that substantially affects adversely the "Issuer", its securities, or the sale and distribution of its securities.

Now, therefore, be it resolved: That Enders M. Voorhees, the Chairman of the Finance Committee, or Adolph W. Vogt, the Comptroller, of this Corporation, be, and hereby he is, authorized and directed for and on behalf of this Corporation to enter into agreements with the Secretary of State of Illinois, as hereinabove set forth, and to execute and deliver the same to said Secretary of the State of Illinois for and on behalf of this Corporation; and further

Resolved: That Geo. K. Leet, the Secretary of this Corporation, be, and hereby he is, authorized and directed for and on behalf of this Corporation to deliver to said Secretary of the State of Illinois, a certified copy of the above and foregoing resolutions in connection with the application of this Corporation for permission to sell said \$100,000,000 aggregate principal amount of Ten Year 3¼% Debentures, due June 1, 1948, in the State of Illinois.

After a full discussion, on motion, duly seconded, the following resolutions were unanimously adopted:

OFFICERS AUTHORIZED TO REGISTER DEBENTURES UNDER S. E. C. ACT OF 1934

Resolved: That the Chairman of the Board of Directors, or the Vice Chairman of the Board of Directors, or the Chairman of the Finance Committee, or the President, or any Vice President, or the Comptroller, and the Secretary or any Assistant Secretary of this Corporation, be, and hereby they are, authorized to prepare or cause to be prepared an application on Form 8-A for the purpose of registering said issue of \$100,000,000 principal amount of Ten Year 3¼% Debentures, due June 1, 1948, of this Corporation under the Securities Exchange Act of 1934, as amended; and that the said officers be, and hereby they are, authorized and directed in the name and on behalf of this Corporation, and under its corporate seal, to execute such application in such form as, with the advice of counsel, they deem necessary or advisable, and that upon the execution of such application as required by the Securities Exchange Act of 1934, as amended, and under the rules and regulations of the Securities and Exchange Commission promulgated thereunder, the Comptroller and Secretary of this Corporation be, and hereby they are, authorized and directed to file or cause the filing of the same with the Securities and Exchange Commission and the New York Stock Exchange, on such date or dates as may seem advisable to the Chairman of the Board of Directors, the Chairman of the Finance Committee, or the President or the Comptroller of this Corporation; and further

OFFICERS AUTHORIZED TO LIST DEBENTURES ON NEW YORK STOCK EXCHANGE

Resolved: That the Chairman of the Board of Directors, or the Vice Chairman of the Board of Directors, or the Chairman of the Finance Committee, or the President, or any Vice President, or the Comptroller and the Secretary or any Assistant Secretary of this Corporation, be, and hereby they are, authorized to prepare or cause to be prepared a form of listing application, with any required financial statements, schedules and exhibits, for the purpose of listing on the New York Stock Exchange said issue of \$100,000,000 principal amount of Ten Year 3¼% Debentures, due June 1, 1948, of this Corporation; and that the said officers be, and hereby they are, authorized and directed, in the name and on behalf of this Corporation and under its corporate seal, to execute said listing application in such form as, with the advice of counsel, they may deem necessary or advisable, and that, upon the execution of said listing application as required by the rules and regulations of the New York Stock Exchange, Enders M. Voorhees, the Chairman of the Finance Committee, Adolph W. Vogt, the Comptroller, and Geo. K. Leet, the Secretary, of this Corporation, be, and hereby they are, authorized and directed to file the said application or cause the same to be filed with the New York Stock Exchange, and that they or any one or more of them be, and hereby they are, designated by the Corporation to appear before the Committee on Stock List of the New York Stock Exchange, with authority to them or any one or more of them to make such changes in said application or in any agreements relative thereto as may be necessary to conform with the requirements for listing; and further

Resolved: That the officers of this Corporation be, and hereby they are, authorized, empowered and directed to do or cause to be done any and all such further acts and things and to execute any and all documents as, with the advice of counsel, they may deem necessary or convenient to carry out and to execute the purpose and the intent of the foregoing resolutions in order to effect the registration of the Ten Year 3¼% Debentures, due June 1, 1948, of this Corporation under the Securities Exchange Act of 1934, as amended, and to effect the listing of said Debentures on the New York Stock Exchange.

On motion, duly seconded, the meeting adjourned.

Geo. K. LEET, Secretary.

The following letters and list are included at this point in connection with Mr. Leffingwell's testimony, *supra*, 12103.

JANUARY 29, 1940.

RUSSELL C. LEFFINGWELL, Esq.,
Messrs. J. P. Morgan & Co.,
23 Wall Street, New York, New York.

DEAR MR. LEFFINGWELL: I regret deeply the delay in acknowledging your letter of January 2, 1940, in which you were good enough to send a memorandum amplifying some of the views which you expressed to the Committee at the time of your appearance. As you are no doubt aware, the memorandum has been offered in evidence.

You may recall in connection with your testimony before the Temporary National Economic Committee on December 20, 1939 the following colloquy (Page 269 of the Verbatim Record) took place:

"Mr. NEHEMKIS. The increase in deposits, I take it, permitted the large increase in Government securities, would you say?"

"Mr. LEFFINGWELL. Excuse me."

"Mr. NEHEMKIS. The question was, did the increase in deposits over this period of time permit the large increase in holdings of Government securities?"

"Mr. LEFFINGWELL. Yes, sir, I should think so."

"Senator KING. You utilize your profits for the acquisition of Government securities so you can get some little interest."

"Mr. LEFFINGWELL. Of course, it all goes into one total, it is not earmarked but the increase in deposits is reflected in part."

Mr. NEHEMKIS. Now most of these Government securities are wholly tax exempt, are they not, sir?

"Mr. LEFFINGWELL. Well, I would have to get an analysis of that. I wouldn't be able to say, because, as you know, the Government issues a variety of issues, some of which are wholly tax exempt and some of which are not wholly tax exempt, and I am not at all sure how that stands in relation to the portfolio."

"Mr. NEHEMKIS. Would you make it available at some later date at your convenience?"

"Mr. LEFFINGWELL. Yes."

Could you advise me whether you wish to add anything to the record in connection with the foregoing?

Sincerely yours,

PETER R. NEHEMKIS, Jr.,
Special Counsel, Investment Banking
Section, Monopoly Study.

PRNehekmis: ok

23 WALL STREET, NEW YORK, February 2, 1940.

DEAR MR. NEHEMKIS: I received your courteous letter of January 29th. Yes, I was glad to see that my Notes had been put in the record. I quite understood how busy you must be and did not expect an early answer to my previous letter.

I am obliged to you for reminding me of the colloquy which is quoted in your letter. I enclose a list of our holdings of United States Government obligations at par on September 30th, the date of our then last published statement. I trust that this gives you the information which you desire.

If there is anything else you need to explain or amplify my testimony or my pamphlet Notes please do not hesitate to call upon me.

With appreciation of your courteous reminder, I am

Very truly yours

R. C. LEFFINGWELL.

PETER R. NEHEMKIS, Jr., Esq.,
Special Counsel, Investment Banking Section,
Securities & Exchange Commission, Washington, D. C.
Enclosure

*J. P. Morgan & Co.-Drexel & Co.—Par Value of United States Government
Obligations Held September 30, 1939*

Description	Tax Exempt	Taxable as to Surtax
U. S. of America 34% Treas. Notes "A" due June 15, 1944.....	\$26,000,000	-----
U. S. of America 114% Treas. Notes "A" due June 15, 1943.....	27,100,000	-----
U. S. of America 118% Treas. Notes "B" due December 15, 1943.....	4,012,000	-----
U. S. of America 144% Treas. Notes "C" due December 15, 1941.....	6,400,000	-----
U. S. of America 134% Treas. Notes due December 15, 1939.....	22,350,000	-----
U. S. of America 134% Treas. Notes "B" due June 15, 1941.....	23,500,000	-----
U. S. of America 114% Treas. Notes "B" due June 15, 1940.....	19,000,000	-----
U. S. of America 144% Treas. Notes "C" due December 15, 1940.....	39,750,000	-----
U. S. of America 144% Treas. Notes "A" due March 15, 1941.....	37,000,000	-----
U. S. of America 134% Treas. Notes "A" due March 15, 1942.....	23,000,000	-----
U. S. of America 134% Treas. Notes "C" due December 15, 1942.....	13,500,000	-----
U. S. of America 134% Treas. Notes "A" due March 15, 1940.....	25,363,000	-----
U. S. of America 2% Treas. Notes due September 15, 1942.....	1,000,000	-----
U. S. of America 2% Treas. Bonds due December 15, 1947.....	-----	\$1,000,000
U. S. of America 244% Treas. Bonds due December 15, 1945.....	-----	1,000,000
U. S. of America 234% Treas. Bonds due September 15, 1945/47.....	-----	1,000,000
U. S. of America Conv. 3% due January 1, 1946.....	45,000	-----
U. S. of America Conv. 3% due January 1, 1947.....	10,000	-----
Commodity Credit Corp. 34% Notes "C" due November 2, 1939.....	-----	8,400,000
Commodity Credit Corp. 38% Notes "D" due August 1, 1941.....	-----	8,870,000
Home Owners Loan Corp. 38% due May 15, 1941.....	-----	1,000,000
Home Owners Loan Corp. 244% due July 1, 1944/42 "G".....	-----	12,000,000
Reconstruction Finance Corp. 38% Notes "N" due July 20, 1941.....	-----	6,350,000
Reconstruction Finance Corp. 38% Notes "R" due January 15, 1942.....	-----	15,420,000
Federal Land Bank 4% due July 1, 1948/44.....	200,000	-----
Federal Land Bank 3% due January 1, 1956/46.....	250,000	-----
United States Housing Authority 134% Notes "B" due February 1, 1944.....	-----	320,000

The following document was entered in the record on January 18, 1940, and is printed at this point in connection with the testimony of R. C. Leffingwell, supra, p. 12107.

EXHIBIT No. 2163

MEMORANDUM PREPARED BY R. C. LEFFINGWELL, PARTNER IN J. P. MORGAN & COMPANY, SUPPLEMENTING HIS TESTIMONY BEFORE THE INVESTMENT BANKING STUDY OF THE TEMPORARY NATIONAL ECONOMIC COMMITTEE.

I. IDLE MONEY.

The amount and velocity of individual bank deposits are determined by the depositor, not by the bank. A depositor selects his bank for safety, for financial accommodation and service, and because of propinquity and convenience. It is the depositor who decides when and with whom and in what amount he deposits his money. It is the depositor who decides when and from whom and how often to draw checks. The banker has nothing to do with these things, or precious little. His business is to keep himself in a position to honor the checks when they are presented, to run a safe and sound bank. And the banker who undertook to tell the depositor how to manage his business, when he could and when he could not draw checks, how often or how seldom, would soon have no deposits to worry about. That is the depositor's business.

But the amount and activity of the depositor's account is influenced and indeed almost controlled by economic conditions and policies. His account will be active if his business is active; and nowadays his business is not active, or not as active as it should be, because of conditions and policies which retard recovery.

In times of good business, deposits are often created by the banks lending money and crediting the depositors with the proceeds of the loans, subject to withdrawal by the depositors at once or from time to time as required. In bad times, such as we have had for ten years, deposits are not so much created that way. In these times the immense expansion of bank deposits is the result of the inflow of fright money from Europe, the devaluation of the dollar, and our own Government's spending and deficit financing.

Evidently these three major factors in the expansion of bank deposits are of a character to discourage velocity of bank deposits rather than to stimulate it, because they upset business confidence.

I cannot agree with those who criticize the Government for going off gold in 1933. Then all the banks, including the Federal Reserve Banks, had to close their windows and stop payment. It was sheer grim compulsion that took us off gold. But it is evident that there was nothing very bright and cheerful and encouraging for business about it.

Similarly the flight money from Europe expanded bank deposits here. But these deposits were running away because of the fear of war and revolution in Europe and Asia. The same fear tended to keep deposits idle here.

Government spending and deficit financing also carried their own antidote against recovery. They are perhaps at first stimulants. But, too long continued, they become depressants. Nobody doubts that the Government was bound to look after the poor and the unemployed liberally and freely and generously. Government spending for relief was most necessary. But Government spending for recovery defeats itself. Government spending for materials and made work, that is work that does not need to be done, is definitely discouraging to business, retards recovery and deprives deposits of their velocity. When the Government bids for materials and supplies and for labor, in competition with business, and, still more, when Government itself engages in or subsidizes enterprises directly competitive with business, for instance housing, public utilities, inland waterways, transportation and banking, there is a plain indication to enterprise to stay out of those fields. No business man supposes that he can compete successfully with the Government of the United States in any field whatever.

Furthermore, the fact of the immense deficit which results from Government spending fills the minds of business men with a sense of apprehension. The public debt, including guaranteed debt, of the United States has been multiplied by about three in the last nine years, while the United States is at peace. It is about 20 billion dollars greater than at the war peak twenty years ago. Sensible people are concerned about this. This fear retards recovery and keeps bank deposits still and sterile.

Our tariff system and our tax system have not been devised with a view to producing revenue so much as with a view to retarding imports in the one case, and redistributing the wealth of wealthy persons and corporations in the other. The tariff, and the excessive burden, and the wholly unequal burden, of taxation, retard trade and recovery, and therefore retard the circulation of bank deposits.

The Government itself has had latterly a definite policy to prevent a rise in prices. In pursuance of that policy in 1936 and 1937 it increased the reserve requirements of member banks, sterilized gold and announced that some prices were too high. These drastic deflationary steps brought on a severe depression. Even now Government is considering measures to prevent a rise in prices. Now if Government does as it has been doing, take steps to increase the cost of labor and taxes on the one hand, and, on the other hand, prevents prices from rising, it is obvious that business is going to be ground between the upper and nether millstone. Rising costs and frozen prices will surely take the profit out of the profit system. This discourages enterprise and freezes deposits.

Another thing that keeps money idle is that business finds itself perplexed by ever-increasing bureaucratic interference with its normal processes. Government manages our money and plans our economy. Government creates more and more bureaus, and sometimes puts the bureaus in charge of men without large practical experience either in the civil service or in business. Business must and should, and on the whole it does, obey the law. It is difficult however for business to adjust to the changing decrees of bureaus. This is one of the things that retards recovery and slows down the velocity of deposits. I do not say that critically. I don't believe any group of Government managers, however able, can manage the business of 130 million Americans successfully. I think you have to leave it to the individual enterprise and initiative of all these people in all these cities and towns and hamlets and farms and mines. And I do not believe, even if you could make a success of a central bureaucratic government, it would be worth doing, because the people would become just a nation of robots. And then we shouldn't be worth saving.

II. MANAGED MONEY AND PLANNED ECONOMY

Turning now to more detailed consideration of managed money and planned economy: Few persons seem to realize how far economic conditions in this country

are due, not only to the Great War of 1914, and the international policies and disturbances which followed, but also to monetary management and economic planning by our own governmental authorities. Until twenty-two years ago we had on the whole a free economy, subject to the laws but not to the management of Government authorities. But since the United States entered the war in 1917, the Government has in large measure managed our money and planned our economy.

I do not say this critically. For the Government's monetary and fiscal policies from 1917 to 1920 I was, as war-time Assistant Secretary of the Treasury, in part responsible. With some other and more recent policies—such as going off gold in 1933, to mention one of the most controversial—I was in full sympathy, and publicly expressed my approval. I have been outspoken in my approval of the easy-money policy, of the tripartite agreements and of the able administration of the Treasury by Secretary Morgenthau. Government could not do otherwise than face and deal with the war crisis in 1917, the deflation crisis in 1933. Government must and should minister without stint to the relief of the poor and the unemployed.

It is our duty, not to criticize, but to learn from experience, not to waste time justifying or blaming past decisions, but to weigh them and their effects for our future guidance.

The point is that Government has for twenty-two years managed our money and to a great extent planned our economy.

The inflation of 1917-1919 was caused by war-deficit financing. The deflation of 1920-1921 was caused by raising the Federal Reserve Bank rate to 6% and then to 7% in the first half of 1920. The recovery from the end of 1922 on was facilitated, and the disastrous inflation of 1927-1929 was stimulated, by easy-money policies of the Federal Reserve Banks, which were always beneficial in intention though they worked out very badly in the latter period. The inevitable collapse of 1929 was precipitated by raising the Federal Reserve Bank rate to 6% in August 1929, a step too long deferred by the Federal Reserve Board. The deflation of 1931-1933 was caused by upholding nobly the pre-war gold standard for a year and a half after England had gone off it. Honorably and to keep our pledged word, for a year and a half, we let the gold go cheap to foreigners who were willing to pay more for it; and deposits were necessarily deflated many times the gold withdrawn, until the banks all closed.

Wisely, and of necessity, the Government suspended gold payments in the spring of 1933. Unwisely, under Professor Warren, Government bid up the price of gold and sold the dollar down in the last half of 1933. Having thus cheapened the dollar and overvalued gold, Government raised the official price of gold from \$20.67, the price before April 1933, to \$35 an ounce in January 1934.

The dollar was cheapened with the intention of raising the commodity price level, some said to the 1926 level. However, having, after N. R. A. was abolished, got real recovery and a lift in prices in 1936 and early 1937, Government's commodity price policy was reversed, and deflationary measures were adopted to prevent the rise of commodity prices for fear of inflation.

These deflationary measures brought on in the latter part of 1937, the swiftest and most abrupt depression recorded. Steps in this managed deflation were (1) the increase in the reserve requirements of the member banks, (2) the sterilization of gold imports (3) the official announcement that some prices were too high. Simultaneously Government expenditures were curtailed, and the Government collected in the fiscal year 1937-1938 in taxes and social security payments about as much money as the Government was spending, resulting in the elimination of net deficit financing during that fiscal year and some reduction in the publicly owned public debt of the United States.

These deflationary policies were in part reversed in 1938, and a measure of recovery has followed.

That is the economic history in a nutshell of twenty-two years of managed money and planned economy in the United States.

Let us consider some by-products of these policies, and some collateral policies.

On the one hand, by paying \$35 an ounce instead of \$20.67 Government is paying foreigners a premium, of nearly 70%, above the old gold price, for gold we don't want and can't use since the banks' reserves are excessive already. On the other hand, Government is again using its authority or influence to prevent some prices from rising at home in response to increased demand. So we are selling dollars cheap for gold and keeping prices of commodities cheap

too. This gives a double discount to foreign buyers of American goods and securities, but it has not brought full recovery or employment here.

That is partly because our policies have been undermining other currencies, have had a deflationary influence upon world gold prices, and have hampered the trade of the world.

The Fordney-McCumber and Hawley-Smoot tariffs contributed to the world breakdown and to our own. I agree wholeheartedly with Secretary Hull and what, against great handicaps, he has been trying to do about this. I wish he could go faster and farther.

The chief use of gold in the modern world is to settle international balances, to move to and fro across the boundaries of nations—like a shuttle, to and fro. When we make a one-way street for it, all to and no fro, we deprive it of much of its usefulness. When we restrict our buying and lending abroad, when we try to sell everything and to buy little, except gold, and for that one thing we are prepared to outbid that world and pay a fancy price, we imperil the economy of the world and measurably impair the usefulness of gold itself as a monetary metal. When on top of that we sterilize the gold we buy, and, by such deflationary measures as I have described, prevent it from reflecting itself in our price level, we make an immense contribution to world deflation and so to world distress and disorder.

We used to call India the Sink of the Precious Metals because her princes and peoples drained all the gold and silver they could away from the mines and currencies of the world and buried them. But today America has outdone India as a hoarder. The most forward-looking country of the West has replaced India as the Sink of the Precious Metals. We have blind faith in our tariff against imported goods, goods which would be of use to us, and we are gluttons for gold, which we cannot use and have to bury.

We subsidize exports, penalize imports, embargo loans and credits, and suck gold out from the mines and currencies of the world. So we do our bit to make the world a worse place for us and our democracy to live in.

Notwithstanding the evils I have pointed out, I do not favor changing the price of gold again. It is too bad to have to change it at all. To increase the price of gold again when we are already paying too much for it, and have too much of it, would be sheer lunacy. That would be a hair from the tail of the dog that bit us. To decrease the price of gold would be politically impossible, deflationary, and destructive of what confidence remains in our monetary stability. We don't want more deflation. We have had enough of that. We don't want to destroy what confidence remains. We have not enough of that. It is well to have something fixed, in a shimmying world.

Therefore the wise course is to allow commodity prices to rise somewhat, and thus reduce the present gross disparity between the gold price and the commodity price level. A gently rising level of prices is to be desired. This should reduce the burden of debts, bring recovery of business and employment, increase profits, increase incomes and Treasury tax receipts, reduce and ultimately remove the need of relief and made work, and so balance the budget.

Rising costs, for taxes, wages, working conditions and social security on the one hand, and low prices for manufactured goods on the other, tend to make business wholly unprofitable, or at best not profitable enough to attract enterprise and initiative to new undertakings.

Capital is plentiful. It is not timid. It is always ready to take a chance. But when enterprise is confronted by Government policies which tend to make business unprofitable, then enterprise won't hire the money. It knows it hasn't got a chance. Rising costs and low prices will surely make enterprise unprofitable. We cannot permanently keep the profit out of the profit system without making unemployment permanent, nor without bankrupting the Treasury.

Our record peace-time deficit has nearly tripled the public debt, including guaranteed debt, in nine years. It is 20 billions greater than at the wartime peak. Extraordinary budgets, recoverable budgets, and financing through subsidiary corporations of the United States Government cannot help matters much. Everybody knows that there is only one test, whether the public debt is rising. And it is. And that scares business and retards recovery.

This deficit has latterly been financed by the fear of Hitler. Flight money from Europe has been financing our deficit for us. That, and the depression at home, keeps money plentiful, idle and cheap while the Government borrows and spends.

There are other things that we could do better than we have done:

We should have cooperation between business and Government. And I mean cooperation, not dictation by Government, nor vituperation by business. No economy can work well when business and Government are at loggerheads.

We need cooperation between Government, management and labor, to increase the output, and the efficiency, and the real income, of labor as a whole. Present labor policies seem to retard recovery and reemployment, and to perpetuate unemployment of the millions who are unable to get or keep jobs in a depressed economy. High wage rates and short hours for the lucky ones who have jobs do not help the unemployed millions who are out of work.

We should have taxes for revenue only, and not to penalize thrift, or to distribute or destroy wealth, or to stop trade. We should not increase taxes. We can never balance this budget by increasing the burden of taxes. We can do it by increasing the incomes and profits of the people so that tax receipts, instead of tax rates, will be bigger, and the people will be better able to pay the taxes.

Finally, I believe we have had twenty-two disturbed years and a ten-year depression, we have idle men and idle dollars, partly because our money has been managed and our economy has been planned by Government.

The American economy isn't worn out. We are in our adolescence as a people. We have only scratched the surface of the resources of this great continent. Our inventive genius puts new tools and new toys forever at our disposal. Our appetites, our desires, our needs are insatiable. We shall succeed in the struggle for existence and for the common welfare if more reliance be placed on the old-fashioned virtues of individual enterprise and thrift.

I suspect that no man or group of men chosen to govern us can be wise enough to manage our money and plan our economy for us. The infinite variety of human affairs, the infinite desires and aspirations of tens of millions of self-willed people, with their hopes and fears, their loves and hates and ambitions, are too much for any central Government to control and regulate wisely and well. The citizens themselves are likely to produce a healthier, happier and more prosperous country. I suspect that the more money is managed, the more economy is planned, the more business is canalized and regimented, the more the individual is controlled by Government,—then so much the more the national economy will run down hill, will deteriorate and be depressed, at first slowly to be sure, then faster and faster, until the rulers of that economy are forced to seek more desperate remedies, more autocratic powers. It is a vicious circle. I believe the future of the human race, and above all the future of the Americans of the United States, is in the freedom of the individual, not in the aggrandizement of the powers of the State. I long for peace in our time and a government of laws and not of men.

December, 1939.

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